

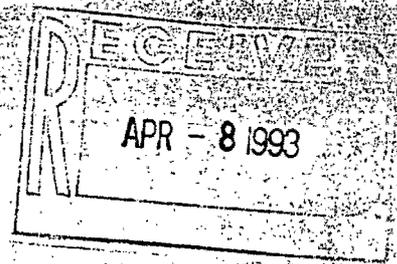
ITEM #8

**PROPOSED AMENDMENTS
TO 1993 DD ACT**

ACTION REQUIRED: FOR YOUR INFORMATION

Recommendations
Relating to the
Reauthorization of the
Developmental Disabilities Assistance
and Bill of Rights Act

Consortium for Citizens with Disabilities



Task Force on Developmental Disabilities

April 6, 1993

Consortium for Citizens with Disabilities

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Developmental
Disabilities
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PREAMBLE

The following recommendations are made by the Task Force on Developmental Disabilities of the Consortium for Citizens with Disabilities (CCD).

These recommendations have been developed with the input of many individuals and organizations, representing the views of people with developmental disabilities, their parents and family members, advocates, and professionals.

The major purposes of these recommendations are: to strengthen and improve the ability of the four programs authorized by the Act to be responsive to the needs of people with developmental disabilities and their families; to help the programs be more accountable and effective; and to look toward the future. To these ends, CCD has greatly simplified the statutory language, so that it can be easily understood and readable, since the Act has been important to the understanding many people have of the issues and values important to the developmental disabilities movement.

This document is organized Part by Part according to current law. Recommended statutory language appears first within each section. Current language recommended for deletion appears in [brackets], language to be added appears in bold and underlined. The rationale for change appears at the end of each major section.

CCD is pleased to present this consensus document to the Senate Subcommittee on Disability Policy and the House Subcommittee on Health and the Environment. We look forward to working with both subcommittees on House and Senate bills during this reauthorization process and in any other way which would be of service to those whom we represent.

Please call one of the co-chairpersons above with any questions.

Signed,

American Association on Mental Retardation (AAMR)
American Association of University Affiliated Programs (AAUAP)
American Occupational Therapy Association (AOTA)
Child Welfare League of America (CWLA)
Epilepsy Foundation of America (EFA)
Federation of Families for Children's Mental Health (FFCMH)
Joseph P. Kennedy Foundation (JPKF)
Learning Disabilities Association (LDA)
National Alliance for the Mentally Ill (NAMI)
National Association of Developmental Disabilities Councils (NADDC)
National Association of Private Residential Resources (NAPRR)
National Recreation and Park Association (NRPA)
National Association of Rehabilitation Facilities (NARF)
National Association of Protection and Advocacy Systems (NAPAS)
National Head Injury Foundation (NHIF)
National Parent Network on Disabilities (NPND)
NISH, Creating Employment Opportunities for People with Severe
Disabilities
National Center for Learning Disabilities (NCLD)
The Arc
The Association for Persons with Severe Handicaps (TASH)
United Cerebral Palsy Associations, Inc. (UCPA)

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PART A - GENERAL PROVISIONS

100. Short Title. This Act may be cited as the "Developmental Disabilities Act" of [1990] 1994.

FINDINGS

SEC. 101. (a) The Congress finds that--

- (1) [(3) notwithstanding their severe disabilities, these persons] People with developmental disabilities have capabilities, competencies, [and] personal needs, [and] preferences[;] and choices that should be recognized;
- (2) [(1)] in 1990] There are more than three million [persons] people with developmental disabilities in the United States;
- (3) [(2)persons] People whose disabilities occur during their developmental period frequently have severe disabilities, which are likely to continue indefinitely, creating challenges during childhood which pose barriers to obtaining skills and knowledge needed for independence, productivity, integration and inclusion into the community in adulthood;
- (4) [(5)] [persons] People with developmental disabilities and their families often require specialized lifelong assistance, [to be] provided in a coordinated manner by many agencies, professionals, advocates, community representatives and others [in order] to eliminate barriers [for such persons and] to meeting [the] their needs; [of such persons;]
- (5) People with developmental disabilities are particularly subject to unequal treatment, exclusion and segregation, and lesser or inappropriate services, programs, activities, and opportunities and such inequities should be redressed;
- (6) Historically, at the federal and state levels, funds have tended to be used disproportionately for institutional and other facility-based programs rather than to provide services and supports to people with developmental disabilities in their own homes and communities;
- (7) [(4)] Famil[y]ies, friends, neighbors and members of the community can play a central role in enhancing the lives of [persons] people with developmental disabilities, especially when the

family and community are [is] provided [with] necessary support services;

(8) [(6)] Generic service agencies and agencies providing specialized services to [persons] people with disabilities sometimes overlook, inappropriately address the needs of, or exclude [persons] people with developmental disabilities in their planning and delivery of services;

(9) A substantial portion of people with developmental disabilities, their families and their communities do not have access to appropriate support and services from generic and specialized service systems to ensure independence, productivity, integration and inclusion in the community and [(7)] a substantial portion of [persons] people with developmental disabilities remain unserved or underserved;

(10) [(8)] The awareness of public and private employers [tend to be unaware] of the capabilit[y]ies of [persons] people with developmental disabilities to [be] engage[d] in competitive work in [integrated settings] the regular work place should be increased; and

(11) [(9)] It is in the national interest to [offer] provide resources to the States and the private sector so that [persons] people with developmental disabilities and their families can work with policy makers, government, professionals and the private sector to --

(A) enable people with developmental disabilities and their families to have the support and opportunit[y]ies they need [to the maximum extent feasible,] to make decisions for themselves and to live in [typical] homes and communities where they can exercise their full rights and responsibilities as citizens[.];

(B) reduce the factors which cause or predispose people to developmental disabilities and reduce the impact of disability on individuals, families and society;

(C) design or redesign services, supports and other assistance which are directed, guided and controlled by people with developmental disabilities and their families; and

(D) provide opportunities for people with developmental disabilities to be included in community life; to have interdependent

relationships with others, including people and families who do not experience disability, and to make contributions to the life of their communities, States and the nation.

RATIONALE

Section 101(a)(1) through (10). CCD recommends that the language in the Findings be simplified and up-dated, using "People First" language through-out. Concepts from current Findings should be retained. The positive concepts (capabilities, preferences, choices) should appear before findings about needs. CCD recommends additions to the Findings of: the historical facts of discrimination, segregation and unequal treatment of people with developmental disabilities; the incentives at the national and state level to disproportionately finance congregate and facility-based services; the lack of access to generic and specialized services and supports; and the importance of families, advocates and professionals.

Section 101(a)(11). CCD recommends including that it is in the national interest to reduce the effects of developmental disability on the individual, family and society; to provide services and supports that are consumer-directed and -controlled; and to recognize the importance of inclusion, interdependence and contributions of people with developmental disabilities.

PURPOSES

SEC. 101(b) The purpose[s] of this title [are--] is [(1)] to provide assistance to States and public and private nonprofit agencies and other organizations to assure that all [persons] people with developmental disabilities and their families receive the services, supports, [and] other assistance and opportunities [necessary to enable such persons] needed to achieve [their maximum potential through increased] independence, productivity, [and] integration and inclusion into the community through the activities of Developmental Disabilities Councils, Protection and Advocacy Systems, University Affiliated Programs and Projects of National Significance to --

[(2)to enhance the role of the family in assisting persons with developmental disabilities to achieve their maximum potential;]

(1) [(6) to promote the interdependent activity of all persons with developmental disabilities, including persons with the most severe disabilities;] include people with developmental disabilities in community life by creating opportunities for the interdependence of people with developmental disabilities and their families with others, including people and families who do not experience disabilities;

(2) assist people with developmental disabilities and their

families to receive the services, supports, opportunities and other assistance they need;

(3) [(7) to recognize] support recognition by the public of the contribution [of] all [persons] people with developmental disabilities [as such persons] make as they share their talents at home, school, and work, and in recreation and leisure time[;] and in their communities;

(4) eliminate or reduce the factors which cause or predispose people to have developmental disabilities and minimize the effects of disabilities on the individual, family and society by supporting efforts such as early intervention, prenatal care, immunization, accident prevention, technology assistance and education of the public;

(5) empower people with developmental disabilities, their families, communities and society at large to support people with developmental disabilities to receive the services, supports, and other assistance and opportunities they need to be included in society and to exercise their rights and responsibilities as citizens; through

(A) [(4)] support to Developmental Disabilities Councils in each State to advocate for public policy change and community acceptance of all people with developmental disabilities and their families [so that such persons receive the services, supports and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity, integration and inclusion in the community,] and to create opportunities for people with developmental disabilities and their families to play decision-making roles in policies and programs that affect their lives;

(B) [(8) to make grants to] support [a system]] to Protection and Advocacy Systems in each State to protect the legal and human rights of [persons] people with developmental disabilities.

(C) [(3)] support to University Affiliated Programs to provide [research, interdisciplinary training and technical assistance to professionals, paraprofessionals, family members, and individuals with developmental disabilities;] interdisciplinary preparation of personnel, service and support integral to community needs, and the dissemination of information and research findings; and

(D) support to national initiatives to collect necessary data; effectuate systems change; provide

technical assistance to DD Councils, Protection and Advocacy Systems and University Affiliated Programs; and support other nationally significant activities.

RATIONALE

Section 101(b): CCD's recommendations retain the basic purpose of the Act and emphasize that it is achieved through the four programs authorized by the Act, including descriptions of what the four programs do. CCD suggests adding the concept of empowerment to the purpose. The word "other" has been added before "organizations" in the third line of the first paragraph to clarify that organizations in addition to State agencies and non-profit organizations may receive assistance under the Act. This validates current practice to include proprietary organizations as grantees, since such organizations are extremely important to inclusion of people with developmental disabilities in the community. Further, CCD recommends that another major purpose of the Act should be to assist people with developmental disabilities and their families to play decision-making roles in all decisions that effect them.

SECTION 102. DEFINITIONS

(a) For purposes of this title terms are defined as follows:

- (1) [(22)] "assistive technology" - no change
- (2) [(28)] "assistive technology device" - no change
- (3) [(29)] "assistive technology service" - no change
- (4) [(15)] "child development [activities]" means [such] priority [area] activities [as will] which assist in [the] prevention, identification, and alleviation of developmental disabilities in children, including early intervention services;
- (5) [(12)] "community living" [activities] means [such] priority [area] activities [as will] which assist [persons] people with developmental disabilities [in] to obtain and receive the supports needed to live in their family home or a home of their own with people of their choice and to develop[ing]e [or maintaining suitable residential arrangements] supports in the community [(including nonfinancial supports and individual, family and community supports)];
- (6) [(26)] "community supports" means [providing] activities, services, supports and other assistance [to persons with developmental disabilities, and the families and communities of such persons, that are] designed to-
 - (A) assist neighborhoods and communities to [be more responsive] respond to the needs of [persons] people with developmental disabilities and their

- families;
- (B) develop local networks which [can] provide informal support, and
- (C) make communities accessible and [enable] able to offer their resources and opportunities to [persons] people with developmental disabilities and their families.
- (7) [(4)] "developmental disability" - no change
- (8) [(23)] "early intervention [services]" means services provided to infants, toddlers, young children, and their [the] families [of such] to--
- (A) identify, assess, and treat developmental disabilities at the earliest possible time to prevent more serious disability;
- (B) ensure the maximum growth and development of a [person] child with [within the above classes who has] a developmental disability; and
- (C) assist families in raising a child with a developmental disability.
- (9) [(13)] "employment [activities]" means [such] priority [area] activities [as will] which increase the independence, productivity or integration of a person with developmental disabilities in the work setting.
- (10) [(24)] "family support [service]" means services, supports, and other assistance [provided] to families with members with developmental disabilities[, that are designed to] which -- (A), (B), (C), (D) - no change
- (11) [(10)] "Federal priority [area activities]" [includes, with respect to Federal priority areas or a State priority area--] means employment [activities], community living [activities], child development [activities], and system coordination and community education.
- (12) [(6)] "independence" means the extent to which [persons] people with developmental disabilities exert control and choice over their own lives.
- (13) [(25)] "individual supports" means services, supports, and other assistance that enable [persons] people with developmental disabilities to be independent, productive, [and] integrated and included in their communities, and that are designed to--
- (A), (B) and (C) - no change
- (D) [Such] This term includes personal assistance services, assistive technology, vehicular and home modification, support at work and at home, and transportation.
- (14) [(8)] "integration" means the --
- (A) [use by persons] the ability of people with

developmental disabilities [of] to use the same community resources that are used by and available to other citizens;

- (B) participation by [persons] people with developmental disabilities in the same community activities and [integrated] types of employment and [in which citizens without disabilities participate, together with regular contact with citizens without disabilities, (C) use of] using the same community resources [by persons with developmental disabilities] as citizens without disabilities, living, learning, working, and enjoying life [together;] in regular contact with each other; [citizens without disabilities;]
- (C) [development of] having friendships and relationships with [persons without disabilities] people and families who do not experience disability,
- (D) [residence by persons with developmental disabilities] living in homes [which are in proximity] close to community resources, [together] with regular contact with [citizens without disabilities in their communities] diverse individuals and groups.

(15) "Native American Consortium" means any confederation of two or more recognized American Indian tribes, created through official action of each participating tribe, which has a combined total population of 150,000 enrolled tribal members and a contiguous territory of reservation and trust lands in two or more states, and which is established to provide protection and advocacy activities for individuals with developmental disabilities pursuant to this Act.

(16) [(2)] "nonprofit" means... no change

(17) [(3)][construction] "other organizations" means those organizations which are not State agencies or not-for-profits but which may be consulting firms, independent proprietary businesses and providers, and local community groups not organizationally incorporated, which are interested in supporting people with developmental disabilities;

(18) [(30)] "prevention" means [activities which] addressing the causes of developmental disabilities and the exacerbation of functional limitations, [such as activities which] by--

- (A) eliminat[e]ing or reduc[e]ing the factors which cause or predispose [persons] people to developmental disabilities;
- (B) increas[e]ing the early identification of existing problems [to] and eliminat[e]ing circumstances that create or increase functional limitations; and

(C) mitigat[e]ing against the effects of developmental disabilities throughout the person's life.[-span.]

(19) [(9)] "priority [area] activities" [includes, with respect to Federal priority areas or a State priority area] means [(A)] activities to increase the capacities and resources of public, [and] private nonprofit and other organizations and entities [and others] to develop a system [for providing] which provides [special] adaptation of generic services or specialized services, supports or other assistance which [responds to] meet the needs and capabilities of [persons] people with developmental disabilities and their families and activities to enhance coordination among entities;

(20) [(7)] "productivity" means--
(A) engage[ment]ing in income-producing work [by a person with developmental disabilities] which is measured [through improvements in] by increased income [level], improved employment status, or job advancement, or
(B) engage[ment]ing [by a person with developmental disabilities] in work which contributes to a household or community.

(21) "protection and advocacy system" means... no change

(22) [(17)] "satellite center" means ... no change

(23) [(19)] "Secretary" means... no change

(24) [(16)] "case management" [activities] and "service coordination" mean[s] priority [area] activities to establish a system which is a potentially life-long, goal-oriented process [for] to coordinat[ing]e the range of services, supports and assistance needed by [persons] people with developmental disabilities and their families, which [is designed to] ensures accessibility, continuity, [of supports and services] and accountability and [to] ensures [that the maximum potential of persons with developmental disabilities for] independence, productivity [and] integration and inclusion into the community [is attained] for people with developmental disabilities;

(25) [(1)] "State" means the fifty states, Puerto Rico, the District of Columbia and the territories of Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and, with respect to part B, the Marshall Islands, the Federated States of Micronesia and the Republic of Palau.

(26) [(20)] "State Developmental Disabilities Planning Council" means a Council established under section [124]

123.

(27) [(11)] "State priority [area]" means [priority area] optional activities [in an area] considered essential by the [State Planning] Council.

(28) [(14)] "supported employment [activities]" means competitive work in integrated work settings which results in wages earned by [-- [for persons] people with developmental disabilities for whom competitive employment

(A) has not traditionally occurred; or

(B) has been interrupted or intermittent as a result of developmental disabilities, and who [because of their disability,] need on-going support services to [perform such] work;

(29) [(27)] "system coordination and community education [activities]" means activities [that] which --

(A) eliminate barriers to access and eligibility for services, supports, and other assistance;

(B) enhance [the] systems design, redesign, and integration, including [the] encourag[ement]ing [of] the creation of local [case management] service coordination and information and referral statewide systems;

(C) enhance individual, family and citizen participation and involvement; and

(D) develop and support coalitions and individuals through training in self-advocacy, educating policy makers and citizen leadership skills.

(30) "systems advocacy" means activities which actively call attention to, support, recommend, espouse or urge improvements in the planning, design, structure, delivery or funding of services and supports.

(31) [(4)] "title" - no change

(32) [(18)] "university affiliated program" means a program which is associated with, or is an integral part of an institution of higher education, and which promotes the independence, productivity and integration into community life of individuals with developmental disabilities by providing:

(A) interdisciplinary preparation of personnel for careers in the field of developmental disabilities;

(B) service and support integral to community needs which include:

(i) technical assistance, consultation, collaboration and community training for, or with, individuals concerned with developmental disabilities including individuals with developmental disabilities, parents of individuals with developmental disabilities,

- professionals, paraprofessionals, students, and volunteers; and may also include
- (ii) clinical health, prevention, education, vocational, family support, personal assistance services, and/or other social services; and
- (C) the dissemination of information and research findings including the empirical validation of activities relevant to the purposes described in paragraphs (A) and (B) and may also contribute to the development of new knowledge in the field of developmental disabilities.

RATIONALE

General: Most changes are editorial, including the use of "people first" and deleting redundant language. Because the definitions in the DD Act are a training tool for the field, CCD recommends listing terms in alphabetical order, making it easier for people to find the terms they need.

Section 102(a)(5). CCD recommends that the Committee recognize the need for personal choice and empowerment for people with developmental disabilities as articulated in the Americans with Disabilities Act and the Rehabilitation Act amendments of 1992 as fundamental policies for community living to build on the successes experienced in many states through the Community Supported Living Arrangements program under Medicaid in which no more than three people with developmental disabilities may live together in a home of their choice with individually tailored supports provided by people of their choice.

Section 102(a)(10). CCD urges the Committee to recognize in its report that family support service is a rapidly evolving program across the states. The original concept of family support grew out of the concept of permanency planning to assure that children grew up in a family home. Therefore, as states continue to expand their family support programs, the Committee should urge them to recognize that when people with developmental disabilities reach the age of majority, the focus of support should shift to the person with a developmental disability who may continue to live within the family home. The Committee should not encourage family support programs to potentially exploit the adult with a developmental disability by preventing him or her from leaving the family home nor have programs put in place which require families to provide care for their adult children until they are no longer capable.

Section 102(a)(15). A definition of Native American Consortium is added because the term is referred to in Part C.

Section 102(a)(17). The definition of construction has been deleted as antiquated. A new definition of "other organizations" describes organizations other than State agencies and not-for-profits that can engage in program activities on behalf of people

with developmental disabilities.

Section 102(a)(24). The term "case management" has been changed to "service coordination," a more current term of art, sensitive to people with disabilities.

Section 102(a)(25). The definition of "State" has been updated to reflect additions of territories eligible for Part B funds.

Section 102(a)(29). To the definition of "system coordination and community education," has been added a subsection to clarify that this term includes supporting self-advocacy and citizen leadership.

Section 102(a)(30). A new definition of "systems advocacy" is proposed, since the term is used in recommended statutory language and has been previously used in Report language.

Section 102(a)(32): The term "university affiliated program" has been updated to appropriately describe the mission of the program, consistent with changes proposed in Part D.

SEC 103. FEDERAL AND NON-FEDERAL SHARE

(a) The Federal share --

(1) of all [projects] activities [in a State] supported by an allotment to the State under part B may not exceed 75 percent of the aggregate necessary costs of all such [projects,] activities as determined by the Secretary, except that in the case of projects, [whose] activities or products targeted to people who live in urban or rural poverty areas, the Federal share [of all such projects] may not exceed 90 percent of the aggregate necessary costs of such projects or activities, as determined by the Secretary and except as otherwise authorized in subsection (b)(4) and

[(b)] Delete, redundant of (1)

(2) [Section 122(d)(1)] No change. [SEC 128 -] Nonduplication. No change

(3) [Section 126] Payments to the States for Planning, Administration and Services. No change.

(b)(1)(c) The non-Federal share of the cost of any project or activity assisted by a grant or allotment under part B of this title may be provided in kind.

(2) [(d)] [For the purpose of determining the Federal share with respect to any project,] [e]Expenditures of [that] such projects or activities made by a political subdivision of a State or by [a nonprofit] public or private entit[y]ies shall, subject to such limitations and conditions as the Secretary may by regulation prescribe, be deemed to be expenditures by such State [in

the case of a project] under part B or [by a university affiliated facility or a satellite center, as the case may be, in the case of a project assisted under] part D.

- (3) New language to be added which affirms that proprietary organizations may be recipients of Part B funds, while describing the conditions under which there should be a preference given to not-for-profit organizations.
- (4) [Section 122(d)(1)] State contributions by the designated State agency to provide support services to the Council, [pursuant to this paragraph], as required under Section 103(a)(2), may be counted as part of such State's non-Federal share of allotments under this part. This non-federal share is not required when the Council is the designated State agency.
- (5) When the Council or Council staff implement State plan priority activities, the non-Federal share shall not be required, reducing the aggregate non-Federal share required of the State.
- (6) (i) [Section 122(d)(2)] Any amount paid under paragraph (a)(1) to any State for any fiscal year shall be paid on condition that there shall be expended from the State sources for such year [for administration of the State plan approved under this section] not less than the total amount expended for such purposes from such sources during the previous fiscal year; except in such year(s) as the Council is or becomes the designated State agency, this provision is not required; and
(ii) for any fiscal year as of September 30, 1993, any funds appropriated by the State for priority area activities shall be maintained.
- (7) Councils may vary the non-Federal share required on a grant by grant basis.

RATIONALE

General: Provisions relating to the Federal and non-Federal shares are currently scattered in different sections of the Act; CCD recommends incorporating all provisions into Section 103.

Section 103(b)(2) and (3). Current law allows for-profit organizations to apply for Part B funds, although this is unevenly administered by the regional offices of ADD. This provision affirms that eligibility while placing a preference on not-for-profit organizations. Language will be provided.

Section 103(b)(4). Current law requires the State to provide a 50% match for the designated State agency functions (the "5% or \$50,000, whichever is less" provision.) If a Council wants to become its own designated agency, this provision is a disincentive

to doing so. CCD believes that it is desirable to provide as many incentives as possible for Councils to become their own designated State agencies, to keep Councils within state government, while protecting Councils' independence as systems advocates. CCD recommends that when the Council is its own designated State agency, this non-Federal match not be required.

Section 103(b)(5). Current law requires "projects" to provide a non-Federal share. However, when Council members and staff are the implementing agents of State plan priorities, they are not "projects" per se. Since most Councils have no funds of their own to offer as non-federal share, CCD recommends that the non-federal match not be required when priority area activities are undertaken by Council members and staff and that the overall non-federal share required be correspondingly reduced.

Section 103(b)(6)(i). This provision would exempt the Council from the requirement to maintain State level of effort when the Council is or becomes its own designated State agency.

Section 103(b)(6)(ii). Several Councils receive a direct state appropriation which is used for a portion of the non-Federal share of priority area activities. Among other things, this enables small and new organizations with few financial resources to be grantees without having to offer a match. CCD recommends that the law add a provision to require the State to continue to maintain the effort through state appropriations from FY 1993 on.

Section 103(b)(7). While current law allows match to vary on a "project by project" basis as long as the total non-Federal share meets statutory requirements, the current wording has been confusing. CCD's recommendation would clarify it.

Section 104. RECORDS AND AUDITS - no change

Section 105. RECOVERY - no change

Section 106. STATE CONTROL OF OPERATIONS - no change

Section 107. REPORTS

(a) By January 1 of each year, [the State Planning] each Council [of each State] shall prepare and transmit to the Secretary a report [concerning] of activities carried out during the [preceding] previous fiscal year with funds paid to the State under part B for such fiscal year. Each [such] report shall be in a form prescribed by the Secretary by regulation and shall contain--

- (1) a description of [such] activities and [the] accomplishments [resulting from such activities];
- (2) a comparison of [such] accomplishments with the goals, objectives, and proposed activities specified [by the State] in the State plan submitted under section 122;
- (3) an accounting of [the manner in which] how funds paid to

a State under part B [for a fiscal year] were [expended] spent;

- (4) a description of the [State Planning] Council's response to significant State actions [taken by the State] in response to [with respect to any intermediate care facility for the mentally retarded in such State, and with respect to] each annual survey report prepared pursuant to section 1902(a)(31)(C) of the Social Security Act and each correction or reduction plan prepared pursuant to section 1922 of such Act with respect to any intermediate care facility for the mentally retarded in such State; [and]
- (5) a description of trends and [the] progress made in the State [in, and any identifiable trends] concerning [the setting of priorities for] policy reform, advocacy [for,] and other [actions] activities on behalf of and with [persons] people with developmental disabilities, [which are attributable to physical impairment, mental impairment, or a combination of physical and mental impairments, particularly] including unserved and underserved groups, [including any other subpopulation of persons with developmental disabilities and significant ethnic, cultural, linguistic and geographical minorities]]; systems change activities which affect people with disabilities other than developmental disabilities; and a summary of actions taken to improve access [to] and services for unserved and underserved groups; [the State Planning Council may have identified.]
- (6) a description of resources leveraged by activities directly attributable to Council actions; and
- (7) a description of the method by which the Council shall widely disseminate the annual report to affected constituencies as well as the general public and to assure that the report is available in accessible formats.

(b) By January 1 of each year, each protection and advocacy system established in a State pursuant to part C shall prepare and transmit to the Secretary a report which describes the activities, accomplishments, and expenditures of the system during the preceding fiscal year, including a description of the system's priorities for that year, the process used to obtain public input, the nature of that input and how it was used.

(c) (1) Secretary's Report, no change other than adjusting numerical references.

- (2) In preparing the report required by this subsection, the Secretary shall [use and] include and analyze information submitted [to the Secretary] in the reports required under subsections (a) and (b) of this section.

RATIONALE

General: Most changes are editorial, use "people first" language, or are clarifications of current practice or meaning.

Section 107(a)(5). A recommendation in the Council annual report would describe systems change activities which affect people with disabilities not covered by the definition of the DD Act. This is one of several provisions being recommended to begin to address the concerns of people with disabilities other than developmental disabilities. Referring to "subpopulations," CCD recommends specifying minorities, consistent with other recommended statutory changes.

Section 107(a)(6). Another new provision proposed is a description of the resources leveraged by Council activities. Since a major role of Part B is to be a catalyst for new services and supports, this provision would provide a focus for evaluating program effectiveness in this area. While it is rarely the case that Councils are solely responsible for obtaining additional resources and that frequently such leveraging can take several years to be realized, it is possible and desirable for Councils to track the results of their investments in systems change.

Section 107(b). In the P&A Annual Report a provision is added, corresponding to a recent change in the P&A authority, to include the public comment received regarding the systems' priorities and objectives.

SEC. 108 - RESPONSIBILITIES OF THE SECRETARY - no change

SEC. 109 - EMPLOYMENT OF PEOPLE WITH DISABILITIES - no change

SEC. 110 - RIGHTS OF [THE DEVELOPMENTALLY DISABLED]
PEOPLE WITH DEVELOPMENTAL DISABILITIES

Section 110. CCD will forward language which up-dates the concepts and language in this section.

PART B--FEDERAL ASSISTANCE [FOR] TO STATE
DEVELOPMENTAL DISABILITIES COUNCILS
[PLANNING PRIORITY AREA ACTIVITIES FOR
PERSONS WITH DEVELOPMENTAL DISABILITIES]

Section 121. PURPOSE

SEC. 121. The purpose of this part is to provide payments to States to support State Developmental Disabilities Councils to promote [to assist in] the development of a comprehensive system and a coordinated array of services, formal and informal supports and other assistance which are directed and controlled [for persons] by people [persons] with developmental disabilities and their families through [the conduct of, and appropriate] planning, [and] coordination [of,] administrati[ve activities,] ion, conduct of and systems advocacy for Federal priorit[y activit]ies, and optional State priority [activity, in order to] which support [persons] people with developmental disabilities to achieve [their maximum potential through increased] independence, productivity, [and] integration and inclusion into the community.

RATIONALE

Section 121: Proposed changes are primarily editorial. "Formal and informal supports" have been added to the list of elements in a coordinated, comprehensive system. That services, supports and other assistance be controlled and directed by those who use it is recommended for inclusion. "Advocacy" activities should be included in the list of Council activities, consistent with current law. CCD recommends that the title of Part B be changed to reflect the overriding Council role in the program.

SECTION 122 - STATE PLAN

(a) Any State desiring to take advantage of this Part must have a State plan submitted to and approved by the Secretary under this section. Such plan shall be developed once every reauthorization period (but no less often than every three years) and be updated annually.

(b) The State plan must --

(1) [(A)] provide for the establishment and maintenance of a State Developmental Disabilities Planning Council in accordance with sections 122 and 123 and describe such Council;

(2) [(B)][The plan must designate the State] identify the agency or office within the State designated to assist the Council to conduct its operations (hereinafter referred to as the "designated State agency" [which, on behalf of the State, shall receive, account for, and disburse funds under this part based on the State plan required in this section [122], and shall provide required assurances and other administrative support services.], as described in section 123(e);

(3) [122(b)(2)(D)][122(b)(5)(A) The plan must provide for the examination of] describe the extent to which services and supports are available within the State for all people with developmental disabilities [not less often than once every three years, of the provision, and the need for the provision, in the State of the four Federal priority areas and the State priority area.] Such examination shall [be made consistent with subparagraph B.] include analyses of:

(A) [122(b)(5)(B)(i)an analysis of such] the priorit[y]ies [areas] (as defined in Section 102(a)(11) and (19) in relation to [limited or lack] the degree of support for [persons] people with developmental disabilities attributable to [either] physical [impairment,] and mental impairments or a combination of physical and/or mental impairments;

(B) [122(b)(5)(B)(ii)an analysis of] the criteria for eligibility for services, including specialized services and special adaption of generic services provided by agencies within the State, that may [causing persons] exclude people with developmental disabilities [to be excluded] from such services;

(C) [122(b)(5)(B)(iii)(iv)] [122(b)(5)(B)(v) an analysis of] services, assistive technology, or knowledge which may be needed to assist [persons] people with developmental disabilities;

(D) [122(b)(5)(B)(vi) an analysis of] existing and projected fiscal resources; and

(E) [122(b)(5)(B)(vii) an analysis of] any other issues identified by the Council.

(4) [122(b)(2)(C)] describe [(and provide for the review annually and revision of the description not less often than once every three years (i) the extent and scope of services, supports or other assistance being provided, or to be provided, to persons with developmental disabilities under such other State plans for, or policies affecting, federally assisted State programs that the State conducts and in which persons with developmental disabilities are or may be eligible to participate,] the review and comment performed in connection with the analyses described in (3), on the impact of major federally-assisted State programs, plans and policies affecting or potentially affecting people with developmental disabilities, including programs relating to education, job training, vocational rehabilitation, public assistance, medical assistance, social services, child welfare, maternal and child health, aging, programs for children with special health care needs, children's mental health, housing, transportation, technology, comprehensive health and mental health, and other such programs as the Secretary may specify;

(5) [122(b)(2)(C)] describe the extent to which [such] federally-assisted State programs [develop and] pursue interagency initiatives [aimed at improving and enhancing] to improve and enhance services, supports and other assistance [which result in increased independence, productivity, and integration into the community for persons] for people with developmental disabilities;

(6) [122(b)(2)(E)for each fiscal year, assess and describe the extent and scope of] specify employment and one or more other Federal priorities and the optional State priority [areas which are] selected by the Council for its major planning and advocacy activities to be addressed [or which will be addressed under the plan in the fiscal year] during the plan period; and

(7) [122(b)(2)](A) set out] describe the specific three-year and one-year objectives in policy reform and service demonstration to be achieved [under the plan] and a listing of the programs, activities, and resources [to be used to meet such objectives] by which the Council will implement its planning and advocacy agenda in selected priority areas and [122(b)(2)(B)] set forth the non-Federal share [that will be] required to carry [in carrying] out each [such] objective [and program];

(8) [122(b)(3)(4) The plan must] contain or be supported by assurances by the State satisfactory to the Secretary that--

(A) [D] [such] the funds paid to the State under section [125] 124 shall be used to --

(i) complement and augment rather than duplicate or replace services for people with developmental disabilities and their families;

(ii) supplement and [to] increase the [level of] funds that would otherwise be made available for the purposes for which Federal funds are provided and not [to] supplant such non-Federal funds;

(iii) [(A)] make a significant contribution to enhance the independence, productivity, integration and inclusion into the community of [persons] people with developmental disabilities [through agencies] in various political subdivisions of the State;

(B) part of such funds will be made available to public or [nonprofit] private entities;

(C) not more than 25 percent of such funds will be allocated to the [the agency designated under section 122(b)(1)(B)] designated State agency for [the provision of] demonstration of model services by such agency and that such funds and demonstration services have been explicitly authorized by the Council;

(D) [(i)The plan must provide that] not less than 65 percent of the amount available to the State under section [125] 124 will be [expended in the] spent for Federal priorit[y]ies [area of employment activities,] and, (at the discretion of the State,) an optional State priority. [activities in any or all of the three other Federal priority areas and a State priority area, the conduct of the analyses specified in clauses (i) through (vi) of subparagraph (B), the implementation of paragraph (3) and subsection (f), and activities which address the implementation of recommendations made in the report described in subsection (f), including recommendations which address unserved and underserved populations.]

(E) [(ii) The plan must] provide that the remainder of the amount available [to the State] from a State allotment[s] under section [125] 124 shall [(after

making the expenditures required by clause (i) of this paragraph) be used for [the] planning, coordination, administration [of], Council support, and operational activities, advocacy and other activities [for] on behalf of [persons] people with developmental disabilities not otherwise covered in subsection (D);

(F) [122(b)(4)(E)] there will be reasonable State financial participation in the cost of carrying out the State plan;

(G) the Council has approved conflict of interest policies as of October 1, 1994;

(H) [122(b)(5)(E) The plan must provide that] special financial and technical assistance shall be given to organizations [agencies or entities] providing services, supports and other assistance to people [for persons] with developmental disabilities who [are residents of] live in [geographical] areas designated as urban or rural poverty areas;

(I) [122(b)(6)(A)(i)The plan must provide that] programs and activities assisted under the plan and the facilities in which [programs] they are operated [for persons with developmental disabilities] will [be in accordance with] meet standards prescribed by the Secretary in regulation;

(J) [122(b)(6)(ii)The plan must provide satisfactory assurances that] buildings used in connection with the programs assisted under the plan will meet all applicable Federal and State standards; [adopted pursuant to the Act of August 12, 1968 (known as the Architectural Barriers Act of 1968).]

(K) [122(b)(6)(B) The plan must provide that] any direct services provided to people with developmental disabilities funded under the plan will be provided in an individualized manner. [consistent with the requirements of section 123 (relating to habilitation plans).]

(L) [122(b)(6)(C)The plan must contain or be supported by assurances satisfactory to the Secretary that] the human rights of all [persons] people with developmental disabilities (especially those [persons] people without familial protection) who [are] receiv[ing]e [treatment,] services, [or habilitation] under programs assisted under this part will be protected consistent with section 110 (relating to rights of [the developmentally disabled]) people with developmental disabilities;

- (M) [122(b)(6)(D) The plan must provide assurances that] the State has [under]taken affirmative steps to assure that participation of individuals in programs under this [title] part is generally representative of the population of the State, with particular attention to [the participation of] members of significant ethnic, cultural, linguistic and geographical minority groups.
- (N) [122(b)(6)(E)] the State will provide the [State Planning] Council with a copy of each.... ICFMR survey report and plan of correction... no change
- (O) [122(b)(7)(A)The plan must provide for the] utilization of resources - no change.
- (P) [122(b)(7)(B)The plan must provide for] employee protection - no change.
- (Q) [124(c)(3)] the staff and other personnel of the Council, while working for the Council, are responsible solely for assisting the Council in carrying out its duties under this part and are not assigned duties by the designated State agency or any other agency or office of the State;
- (R) the designated State agency or other office of the State does not interfere with the systems advocacy, budget, personnel, State plan development of, or plan implementation by the Council; and
- (S) [122(b)(8)The plan also must contain]... additional assurances - no change.

(c) Public Review, Submission and Approval

- (1) The Council shall make the proposed State plan available for public review and comment in accessible formats and take into account and respond to significant suggestions, as prescribed by the Secretary in regulation.
- (2) The Council shall consult with the designated State agency to ensure that the State plan is consistent with State law and to obtain appropriate State plan assurances before submitting the State plan to the Secretary.
- (3) [122(c)] The Secretary shall approve any State plan and [any modification thereof] annual updates which compl[ies] with the provisions of subsections (a), (b), and (c). The Secretary shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

[(f)(1), (2), (3), (4)]

RATIONALE

General: Many changes are editorial. As in other Sections, CCD recommends structuring and organizing this section so it is more easily understood and "user-friendly." CCD recommended language pulls together similar categories of activities/plan requirements as follows: the identification of Council and designated agency; research and analyses steps needed in plan preparation; the plan proper, with all assurances in one subsection; and the public review, submission and approval processes. Provisions related to the 1990 Reports have been deleted. Should Congress wish to retain references to this activity for historical purposes, CCD will develop report language.

Section 122 (b). Recommended changes clarify and pull all plan related activities together. In Section 122(b)(3), all analyses applicable to plan development have been brought together. In (b)(4), the children's mental health program has been added to the plans and policies to be reviewed by the Council. In Section 122(b)(8), all State plan assurances are together. Four new assurances are recommended: (C) provides an assurance that any demonstration services funded by the Council through the designated State agency have been authorized by the Council. (E) specifies the activities which may be funded by Part B from other than priority area funds. (G) adds an assurance that Councils have conflict of interest policies. (R) assures that the State does not interfere with the mandated responsibilities of the Council.

Section 122(c). In (c)(1), CCD recommends summarizing in statute what is currently in regulation about the public review process for the State Plan. In (c)(2), CCD recommends clarification that the Council consults with the designated State agency on the state plan only to obtain assurances and to ensure that the plan is consistent with State law.

SECTION 123-[HABILITATION PLANS]

RATIONALE: CCD recommends eliminating current Section 123, Habilitation Plans, since it is no longer appropriate to a program that does not provide treatment or habilitation services to individuals. Require, in the State plan section, that grantees which demonstrate model services to individuals with developmental disabilities must have written individualized plans for each person receiving demonstration services funded under Part B.

Sec. [124] 123. STATE DEVELOPMENTAL DISABILITIES
PLANNING COUNCILS

(a) Each State [which receives assistance] assisted under this Part shall establish and maintain a State [Planning] Developmental Disabilities Council, hereinafter referred to as "the Council," to serve as an advocate for all [persons] people with developmental disabilities. [by carrying out priority area activities.]

(b) (1) The members of the [State Planning Developmental Disabilities] Council of a State shall be appointed by the Governor of the State from among the residents of that State. The Governor shall select members, at his or her discretion, after soliciting recommendations from organizations representing a broad range of individuals with developmental disabilities and individuals interested in people with developmental disabilities, including the non-State agency members of the Council. The Council shall coordinate Council and public input to the Governor regarding all nominees. The Governor shall consider the ethnic, cultural, linguistic and geographical diversity of the State in making Council appointments and shall adhere to requirements pursuant to subsections(b)(1), (2), (3), (4), (5) and (6).

(2) The Governor [of each State] shall make appropriate provisions [for the rotation of] to rotate Council membership [on the State Planning Council.], allowing members to continue to serve until their successors are appointed. The Council shall notify the Governor and the Secretary when vacancies remain unfilled and the Secretary shall contact the Governor regarding membership requirements when vacancies remain unfilled for a significant period of time.

(3) Each [State Planning] Council shall at all times include [in its membership] representatives of the principal State agencies, [(including [the] State agenc[y]ies that administer[s] funds provided under the Rehabilitation Act [of 1973], [the State agency that administers funds provided under the Education of the Handicapped] the Individuals with Disabilities Education Act, [the State agency that administers funds provided under] the Older Americans Act [of 1965], and [the State agency that administers funds provided under] title XIX of the Social Security Act for persons with developmental disabilities); higher education training facilities[,]; each university affiliated program or satellite center in the State[,] established under part D; the State protection and advocacy system established under [section 142] part C[,]; local agencies[,]; and nongovernmental agencies and private nonprofit groups concerned with services for [persons] people with developmental disabilities in that State.

(A) These representatives shall have sufficient authority to engage in policy planning and implementation on behalf of the department, agency or program they represent and

(B) shall recuse themselves from any discussion of grants or contracts for which their departments, agencies or programs are grantees or applicants and follow the conflict of interest policies required under Section 122(8)(G).

(4) At least one-half of the membership of each [State Planning] Council shall consist of [persons who]--

(A) [are persons] people with developmental disabilities;

(B) [are] parents or guardians of [such person] children with developmental disabilities; or

(C) [are] immediate relatives or guardians of [persons] adults with mentally impairing developmental disabilities who cannot advocate for themselves, and whose relatives or guardians, [and who] are not managing employees (as defined in section 112(b) of the Social Security Act) of [a] State agency[ies] [which receives funds or provides services under this part, who are not managing employees of] or any other entity which receive[s] or apply for funds or provide[s] services under this part, [, and who are not persons with an ownership or control interest (within the meaning of section 1124(a)(3) of the Social Security Act) with respect to such an entity.]

(5) Of the members of the [State Planning] Council described in paragraph (4) at least--

(A) one-third shall be [persons] people with developmental disabilities,

(B) one-third shall be parents, relatives or guardians of adults with mentally impairing developmental disabilities described in (4)(C) and

(C) one-third shall be a combination of individuals described in (4)(A), (B), and (C).

(6) [(B)(i)] Of the members of the Council described in paragraph (4) [individuals described in subparagraph (C) of paragraph (4), and (ii)] at least one [of such individuals] shall be an immediate relative or guardian of an institutionalized or previously institutionalized person with a developmental disability or a person with a developmental disability who resides or previously resided in an institution. If such individuals do not reside in a State, this provision is waived.

(c)[(1)] The responsibilities of each [State Planning] Council shall be to --

- (1) serve as an advocate for systems change to support the independence, productivity, integration and inclusion in the community of all people with developmental disabilities;
- (2) [Section 122(b)(5)(A)The plan must provide for the review and revision] examine, [not less often than] once every [three years] reauthorization period, the provision of, and [the] need for [the provision, in the State of] the four Federal priorit[y areas] ies and an optional State priority area, to address, on a Statewide and comprehensive basis, urgent needs [in the State] for [the provision of] services, supports and other assistance for people with developmental disabilities and their families, pursuant to Section 122;
- (3) [Section 122(a)Any State desiring to take advantage of this part must have a State plan submitted to and approved by the Secretary under this section.] develop and submit the State plan required under Section 122 after consultation with the designated State agency [designated] under [section 122(b)(1)(B)] the State plan. [required by this part including the specifications of Federal and State priority area activities under section 122(b)(5)(D)(i);] Such consultation is solely for the purpose of obtaining State assurances and ensuring consistency of the plan with State law;
- (4) implement the State plan by conducting and supporting the Federal priority of employment and one or more of the remaining three Federal priorities and an optional state priority as defined in Section 102. Priorities may be implemented by the Council by:
 - (A) [(Section 102(9)(C)the demonstration of] demonstrating new ways, on a time-limited basis, to enhance the independence, productivity, [and] integration and inclusion into the community of [persons] people with developmental disabilities, [such as] including model demonstrations which, if successful, [will] should be generally [applicable] available through sources of funding other than funding under this title, [including new ways to enhance special adaptation of generic services or specialized services for persons with developmental disabilities and the families of such persons;] and assisting those conducting such successful demonstration activities to develop strategies for funding from other sources;
 - (B) [(Section 102(9)(D)outreach activities for persons] reaching out to enable people with developmental disabilities [to enable such persons] and their families who otherwise might not come to the attention of the Council to obtain services,

supports and other assistance, [to obtain assistance in Federal priority areas of a State priority area] including access to special adaption of generic services or specialized services [for persons with developmental disabilities and the families of such persons];

(C) [Section 102(9)(E)the] training and empowering [of persons] people with developmental disabilities, their family members [of such persons,] and personnel, including professionals, paraprofessionals, students, [and] volunteers, and other community members to obtain access to or to provide, services, supports and other assistance [in the area], including [special] adaption of generic services or specialized services for [persons] people with developmental disabilities and [the] their families [of such persons];

(D) assisting neighborhoods and communities to respond positively to people with developmental disabilities and their families by encouraging local networks to provide informal and formal supports and enabling communities to offer them access, resources and opportunities;

(E) fostering inter-agency collaboration and coordination to better serve, support or assist people with developmental disabilities and their families;

(F) coordinating with
(i) other councils or committees, authorized by Federal or state statute, concerned with people with disabilities such as the Early Intervention Council under Part H of the Individuals with Disabilities Education Act, the Vocational Rehabilitation Council and the Independent Living Council under the Vocational Rehabilitation Act, the Governor's Committee on Employment of People with Disabilities and other similar councils or committees;
(ii) Parent Training and Information Centers and other federally funded projects which assist parents of children with disabilities;
(iii) and other groups interested in systems advocacy for people with developmental disabilities.

(G) [adapted from Section 102(27)(A), (B), (C)] eliminating barriers, enhancing systems design and redesign, enhancing citizen participation and developing or supporting coalitions to address issues identified in the State plan.

- (H) [in part derived from Section 102(27)(C)] educating the public about the capabilities, preferences and needs of people with developmental disabilities and their families and developing and supporting coalitions which support the policy agenda of the Council, including training in self-advocacy, educating policy makers and citizen leadership skills;
- (I) [(Section 102(9)(B)presentation of] providing information [, approaches, strategies, findings, conclusions, and recommendations] to Federal, State and local policy makers, including the Governor, state legislature, State agencies, the U.S. Congress and the federal executive branch in order to increase the ability of these policy makers to offer [enhance] opportunities [for persons with developmental disabilities, including the enhancement of a system for providing or making available special adaptation of] and to enhance or adapt generic services or provide specialized services [for persons] to people with developmental disabilities and [the] their families [of such persons;] by [(i)] [the] conducting [of] studies and analyses; [(ii)] [the] gathering [of] information; and develop[ment]ing and disseminating [of] model policies, and procedures, [the presentation of] information, approaches, strategies, findings, conclusions and recommendations [to Federal, State and local policy makers--];
- (J) [(Section 102 (9)(F)similar] engaging in activities [designed] to prevent and lessen the impact of developmental disabilities; and/or
- (K) [Section 102(9)(F)] similar activities [designed] to expand and enhance the independence, productivity, [and] integration and inclusion into the community of [persons] people with developmental disabilities throughout the State on a comprehensive basis.
- (5) [(Section 122(b)(2)(F)establish a method for the periodic evaluation] Monitor, review, and evaluate [of the] not less often than annually the implementation [plan's] and effectiveness of the State plan in meeting [the] its objectives, [described in subparagraph (A).]
- (6) Responsibilities of the Council may be carried out by Council members, staff, consultants, contractors and/or subgrantees.
- (7) Nothing in this Part precludes Councils from planning and

advocating for people with disabilities other than developmental disabilities.

(d) The Council, assisted by staff, has management authority to fulfill its responsibilities outlined under subsection (c) including --

(1) [Section 124(c)(1)Each State Planning Council shall] prepar[e and] ing, approv[eling and implementing a budget using amounts paid to the State [under this part] to fund all activities under this part, including

(A) conducting hearings and forums; reimbursing Council members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties; compensating non-State agency Council members who must forfeit wages from other employment when performing official Council business; supporting Council member and staff travel to authorized training and technical assistance activities, including in-service training and leadership development; and appropriate subcontracting activities;

(B) [(Section 124(c)(1)to hire] hiring and maintaining [such] sufficient numbers of staff and obtaining the services of such professional, consulting, technical, and clerical personnel, qualified by training and experience, consistent with State law as the [State Planning] Council determines [to be] necessary to carry out its functions under this part, except that such State law shall not apply hiring freezes or other personnel restrictions to personnel and positions supported under Part B; and

(C) directing the expenditure of funds for grants, contracts, and other activities authorized by the approved State plan.

(i) The Council may contract with agencies other than the designated State agency for needed support services with the agreement of the designated State agency.

(2) [(Section 124(c)(2)Each State Planning Council shall, consistent with State law, hire] recruiting and hiring a Director of the [State Planning] Council, should that position become vacant, and [who shall be supervised and evaluated by the State Planning Council] supervising and annually evaluating the Director. The Director[and who] shall hire, [and] supervise and annually evaluate the staff of the [State Planning] Council. Council recruitment and hiring of staff shall be consistent with State and Federal non-discrimination laws. Dismissal of personnel shall be only for cause, based on documented performance evaluations and consistent with State law and

personnel policies. Council directors who are exempt from State personnel policies may only be dismissed based on documented performance criteria;

- (3) [Section 124(c)(3)] ensuring that the Council staff and other personnel [of a State Planning Council], while working for the [State Planning] Council, shall be responsible solely for assisting the [State Planning] Council in carrying out its duties under this part and shall not be assigned duties by the designated State agency or any other agency or office of the State.
- (4) periodically reviewing the appropriateness of the designated State agency and making any recommendations for change to the Governor.
- (5) [(122(b)(3)establish a method for the] periodically monitoring, reviewing and evaluat[ion]ing [of] the implementation and [the plan's] effectiveness of the State plan in meeting [the] its objectives. [described in paragraph (A).]
- (6) Submit to the Secretary, through the Governor, [such] periodic reports on its activities as the Secretary may reasonably request, keep such records and afford such access thereto as the Secretary finds necessary to verify such reports.

(e)[Section 122(b)(1)(B)The plan must] Each State which receives assistance under this part shall designate the State agency (hereinafter [in this part] referred to as the "designated State agency") which shall, on behalf of the State, perform the functions described in section 123(e)(ii) [receive, account for, and disburse funds under this part based on the State plan required in section [122] 124, and shall provide required assurances and other administrative support services.]

(1) [Section 122(b)(1)(B)Except as provided in subsection (e),] the designated State agency [may] shall be--

- (A) [(i)] the Council required under subparagraph 122(a);
- (B) [(ii)] a State agency that does not provide or pay for services to people with developmental disabilities; or
- (C) [(iii)] a State office, including the immediate office of the Governor of the State, or a State planning office, except that

(i) [Section 122(e)(1)] if a State agency that provides or pays for services for [persons] people with developmental disabilities was the designated State agency for purposes of this Part on the date of enactment of the Developmental Disabilities Act Amendments of [1987] 1994 and the Governor (or Legislature,

where appropriate) of the State determines, before June 30, [1988] 1995, not to change the designation [of such agency], such agency may continue to be the designated State agency for purposes of this part only if--

(I) [(2)] there has been a [the] determination [by the Governor] [shall be] at the discretion of the Governor (or Legislature) [and by the Governor] of a State after consideration of the comments and recommendations of the general public and a majority of the non-State agency members of the Council and after the Governor (or Legislature) [with respect to the designation of such State agency] [and after the Governor] has made an independent assessment [of the impact] that the designation of such agency shall not interfere with the budget, personnel, priorities or other action of the Council and [has on] the ability of the [State Planning] Council to serve as an advocate for [persons] people with developmental disabilities.

(II) [122(d)(4)] After the date of enactment of the Developmental Disabilities Act Amendments of [1987] 1994, any designation of a [designated] State agency shall be made in accordance with the requirements of subsection [122(b)(1)(B)] 122(e)(1);

(III) [122(e)(5)] After October 1, [1990] 1993, the [Planning] Council may [issue a] request [for] a review of the designation of the designated State agency by the Governor (or Legislature). The Council shall provide documentation of the reason a change is needed and make a recommendation to the Governor (or Legislature) regarding a preferred designated State agency.

(IV) After the review completed under (C), a majority of the non-State agency members of the Council may appeal to the Secretary for a review of the designation of the designated State agency if Council independence as a systems change advocate is not being assured because of actions or inactions of the designated State agency.

(ii) The responsibilities of the designated State agency shall be to:

- (I) [(Section 122(b)(1)(B)The plan must designate the State agency which, on behalf of the State, shall] receive, account for, and disburse funds under this part on behalf of the State, based on the State plan required in section 122, and to provide required assurances and other administrative support services as requested by and negotiated with the Council;
- (II) [122(b)(1)(C)The plan must provide that the State agency designated under subparagraph (B) will] keep such records and afford such access thereto as the Secretary and the [State Planning] Council find[s] necessary;
- (III)[122(b)(1)(D)The plan must] provide for such fiscal control and fund accounting procedures to assure the proper disbursement of and accounting for funds paid to the State under this Part;
- (IV) provide, if the designated State agency is other than the Council, timely financial reports at the request of the Council regarding the status of expenditures, obligations, liquidation and the federal and non-Federal share;
- (V) provide, if other than the Council, the required non-Federal match defined in Section 103(b)(3) and (5)(i); and
- (VI) upon the request of the Council, develop a memorandum of understanding with the Council delineating the roles and responsibilities of the designated State agency.

RATIONALE

General: Many suggested changes are up-dates and clarifications of current language and up-dating of language. There currently are problems with Council membership, rotation, vacancies and appointments that need to be solved in statute.

Section 123(b)(1). CCD recommendations would require Governors to solicit recommendations from organizations and individuals representing a broad range of people with developmental disabilities, similar to the Rehabilitation Act Advisory Council process. Recommendations include consideration of significant ethnic, linguistic, cultural and geographical minorities. Councils in most states are now the coordinators of nominations for their

Governors. This provision would require Councils to solicit, on behalf of the Governor, the names and resumes of interested individuals. Councils would be required to forward all names and back-up materials and provide information to the Governor with respect to categories of membership which are currently unfilled. Appointments would remain solely at the discretion of the Governor. Proposed provisions would also allow the non-State agency representatives of Councils to advise the Governor on whether to appoint P&A and UAP representatives who are Board members rather than paid staff, since in some states this has created a problem whereby colleagues in the P&A and UAP are in supervisory roles to their colleague, the Council executive director.

Section 123(b)(2). Because there frequently are delays in Governors' appointments, CCD recommends that the statute specify that Council members serve until their replacements are appointed. This will ensure that Councils have their full complement of members to conduct business. The CCD recommendation would also add an incentive for Governors to appoint in a timely manner, by specifying that the Council notify the Secretary of significant delays.

Section 123(b)(3)(A) and (B). Frequently, the individuals sent to represent State agencies on the Council or as proxies for State agency representatives are not in policy positions. The CCD recommends that the Act ensure that these representatives are in policy making positions, modelled after language in the Rehabilitation Act. In addition, these representatives should absent themselves from discussion and action regarding Part B funds which they receive or for which they may be applying. Report Language will be suggested which addresses P&A and UAP representatives who are inappropriately placed in supervisory roles to the Council executive director as well as Council non-agency member involvement in suggesting to the Governor appropriate state agency representatives when States have umbrella human services agencies for which one individual could represent many programs.

Section 123(b)(4)(C). Current law excludes from Council membership parents of people with mentally impairing developmental disabilities who are Board members of not-for-profit grantee or potential grantee organizations. Because the developmental disabilities community is not a large one, this prevents many excellent people from serving. CCD recommends eliminating this restriction but also to require Councils to have a conflict of interest policy that addresses conflicts or potential conflicts for all Council members. (This requirement appears as an assurance in section 123. NADDC has developed a model policy which many Councils are in the process of reviewing and adapting.)

Section 123(b)(6). CCD recommends that the so-called "institutional" representative could be an individual who resides or formerly resided in an institution. Since state institutions are phasing out in many States, CCD has added a provision that if there are not individuals which meet this criteria in a state, this requirement would be waived.

Section 123(c). Currently Council programmatic responsibilities are scattered in various sections and subsections of the Act. CCD recommends putting them all in subsection (c).

Section 123(c)(2). This provision would link the State plan cycle to the reauthorization cycle. Frequently new reauthorizations occur mid-cycle, requiring dramatic adjustments to be made during the annual up-dating process. This change would start a process to coordinate the plan with new statutory provisions.

Section 123(c)(3). This recommendation links the current statutory role of the designated State agency with the State plan process, clarifying that the agency's role is to provide assurances and to ensure that the plan is consistent with state law and not to have oversight of programmatic priorities.

Section 123(c)(4)(A). Subsection (4) adds a provision reflecting current practice - that Councils implement the State plan they develop. Current law specifies that demonstrations should be time-limited and seek on-going funding from other sources. CCD suggests strengthening this section to give Councils responsibility to plan a strategy in advance.

Section 123(c)(4)(D). CCD recommends adding a provision to Council responsibilities which addresses the need to support neighborhoods and local networks to provide formal and informal supports.

Section 123(c)(4)(E). Current law mandates inter-agency work through the State planning process. This provision specifies that this is a technique to implement the plan.

Section 123(c)(4)(F). CCD recommends adding a provision requiring DD Councils to coordinate with other Councils authorized in Federal and state law concerned with people with disabilities. DD Council experience with systems change activities can greatly enhance the policy approaches of other Councils, enhance information sharing and help to shape a more unified approach in each State to disability policy advocacy.

Section 123(c)(4)(G). CCD recommends that the specific activities authorized in definition 102(29) on systems coordination and community education be incorporated here.

Section 123(c)(4)(H). Councils have performed public education activities since first authorized. This provision lists such activities as an implementation strategy for the State plan.

Section 123(c)(4)(I). Currently, some State policies place restrictions on the Council and staff with respect to educating policy makers which are contradictory to the Council's mandate. CCD recommends specifying these policy makers.

Section 123(c)(6). To give maximum flexibility to the Council and to codify current approved practice, CCD suggests delineating the various human resources available to carry out the responsibilities

of the Council.

Section 123(c)(7). CCD recommends a new section which validates that Councils' generic systems change activities may benefit people with disabilities other than developmental disabilities. All Councils work with policy makers to ensure that people with disabilities benefit from the same services that other citizens in the states enjoy (eg., accessible transportation.) Since much of Council work entails community living activities targeted toward full inclusion, this new provision would clarify that such work meets with Congressional approval, even if people other than those with developmental disabilities happen to be assisted.

Section 123(d). Currently, Council management responsibilities are scattered in various parts of the Act. CCD recommends that they be explicitly listed in one place. Some Councils are still struggling to wrest management of the Council from the State. Such control struggles frequently thwart Councils' ability to meet Congressional mandates. CCD recommends describing Council and staff management and operational functions, making it clear that these activities are intended to support Council's Congressional mandates.

Section 123(d)(1)(A). This language is adapted from the Rehabilitation Act and the Individuals with Disabilities Education Act, Part H, outlining types of supports to Councils that can be paid for by the program budget. This language also corresponds to language proposed under the P&A authority.

Section 123(d)(1)(B). This provision would help Councils when States arbitrarily apply restrictions to Part B funds for reasons unrelated to the DD Program. Councils need to be exempt from State hiring freezes, bumping, and other personnel practices if they negatively affect the provision of support to the Council. While Congress included report language to this effect in 1990, it has been insufficient to prevent such practices from disrupting Council staff, destroying the staffing structure and continuity and reducing expertise available to the Council. In addition, CCD suggests that Congress send a message to state personnel systems that special qualifications are required for professional staff members of DD Councils. Frequently, state classifications have little to do with the skills needed to staff and manage Councils.

Section 123(d)(1)(C). CCD recommends that the statute reinforce Council authority to direct its own budget. While this reflects current law, there are still issues of State control which need to be rectified. This provision would allow the Council to contract out some of the designated State agency functions while retaining all accountability functions within the State purview. This permits Councils to "get the best price" and to overcome some of the bureaucratic barriers to efficient and cost-effective operation of this program.

Section 123(d)(2). The current provision that Councils hire the executive director was originally intended to emphasize that the Council, not the State, has the authority to hire the director.

Unfortunately, States have either misinterpreted or abused this provision during the last authorization period. While Councils should have the ability to terminate an Executive Director who is performing poorly or who has violated State personnel policies, CCD does not believe this provision was intended to justify firing the Executive Director whenever there is a new Chairperson or a new Governor. CCD recommends that the law make clear that a new Council executive director is hired when the position becomes vacant and not because there is a change in political leadership. Also it must be clarified that termination must be for cause, based on a documented performance evaluation in a form consistent with State law.

Section 123(d)(4). CCD recommends a requirement that the Council periodically review the efficacy of its designated State agency. This change will allow the issue to be a federal requirement rather than one resulting from crisis or controversy.

Section 123(e). The Act needs to reinforce the current limitations of and further explicate the role of the designated State agency. CCD recommends that designated State agency responsibilities be listed in one subsection and that the language be applicable to Councils when they are their own designated State agencies. Reference to the State legislature's role in redesignation should be added because in some States the legislature, rather than the Governor, has responsibility for designation.

Section 123(e)(1)(C)(i)(I) - IV. The CCD recommends that if redesignation of the State agency is under consideration, the general public and the non-State agency members of the Council must make a recommendation about an appropriate designated agency and justify it. Also, CCD recommends that there be a requirement that Councils inform the Governor if the designated agency is inhibiting Council authority regarding advocacy, personnel, budget, and State plan development and implementation. CCD recommends that the Act include provisions authorizing the Council to ask the Governor, and if that is unsatisfactory, the Secretary, to review the designation of the State agency, if the Council can document that the State assurance is not being followed.

Section 123(e)(ii). This subsection brings together all provisions relating to the responsibilities of the designated State agency and includes currently authorized activities.

Section 123(e)(ii)(VI). Many Councils have found it helpful to have memoranda of understanding with their designated State agencies. Others feel such a memoranda of understanding would create more problems than it would resolve. CCD recommends that there be a provision to allow Councils, at their option, to require the designated State agency to enter into a memorandum of understanding regarding its roles and responsibilities to the Council program.

SECTION [125] 124 - STATE ALLOTMENTS

- (a)(1) [125(a)] For each fiscal year, the Secretary shall, in accordance with regulations and this paragraph, allot [the] sums appropriated for such year under section [130] 127.
- (2) [125(a)(1)(C)] Sums allotted to the States under this section shall be used in accordance with approved State plans under section 122 for [the provision under such plans of services for [persons with developmental disabilities] the development, implementation and monitoring of such plan.
- (3) [125(a)(1)] Once per State plan period the Secretary shall, in accordance with regulations and this paragraph, determine the State percentage share of the appropriation on the basis of--
- (A) the population of the State,
 - (B) the extent of need for services for people with developmental disabilities, [125(a)(6) in determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account] and the scope and extent of the services described [pursuant to section 122(b)(5)] in the State plan of the State; and
 - (C) the financial need of the State.
- (D) In any year that appropriations are not sufficient to allow a State to receive the allotment received in the previous year, the allotment will remain at the level of the previous year except that if appropriations are below the previous year amount, the allotments will be based on the formula established in Section 124(a)(3) (A), (B), and (C); and
- (E) In any year when appropriations increases would result in a decrease in some allotments under Section 124(a)(5)(ii) were such formula to be applied to the entire allotment, the formula shall be applied only to the difference of the increase in appropriation between the prior year and the current year appropriations.
- (4) [125(a)(2)] Adjustments in the amounts of State allotments [based on [subparagraph (A), (B), and (C) of] paragraph (1) may] shall not be made more often than annually. The Secretary shall notify States of any adjustment to be made not less than six months before the beginning of the fiscal year in which such adjustment is to take effect.

- (5) [125(a)(3)(A) Except as provided in paragraph [(4)] (6), for any fiscal year the allotment under paragraph (1)--
- (i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau may not be less than [\$200,000] \$210,000; and
 - (ii) to any other State, Puerto Rico and the District of Columbia may not be less than the greater of \$400,000 or the amount of the allotment (determined without regard to subsection (6)[d]) received by the State for the fiscal year as appropriated as of September 30, [1990] 1993.
- (6) CPI provision, no change.
- (7) [125(a)(4)] In any case in which amounts appropriated under section [130] 127 for a fiscal year exceed [\$65,000,000] \$75,000,000, the allotment under paragraph (1) for such fiscal year --
- (A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau may not be less than [\$210,000] \$220,000; and
 - (B) to any other State, Puerto Rico and the District of Columbia may not be less than [\$400,000] \$450,000.
- (b) Unobligated funds - no change
- (c) Cooperative or joint efforts - no change
- (d) Reallotment - no change

RATIONALE

Section 124(a)(2). Language is recommended which clarifies that allotments are also to be used for state plan development, monitoring and implementation.

Section 124(a)(3)(D) and 124(a)(5). Even when the overall appropriations increase for Part B, several Councils lose funds at a rate which appears to be out of proportion to any changes in population or need because of unknown anomalies in the formula used to determine allotments. CCD recommends hold-harmless clauses so no State allotment can be less than the allotment received in FY 1993, unless the appropriations are reduced in total.

Section 124(a)(7). Since CPI and appropriations increases do not occur every year, minimum allotment Councils need increased resources, linked to the overall increase in appropriation, as has been done in the past. Retain current minimums in effect as of

September 30, 1993 until overall appropriations for Part B reach \$75 million; then increase to \$220,000 for territories and \$450,000 for states.

[SEC. 125 - PAYMENTS TO STATES FOR PART B] -
Incorporated into Section 103 in its entirety.

SEC.[126] 125 - WITHHOLDING OF PAYMENTS - no change

[SEC. 127] NONDUPLICATION.
Incorporated into Section 103 in its entirety.

SEC. [128] 126 - APPEALS BY STATES- no change

Section [130] 127 AUTHORIZATION OF APPROPRIATIONS

For allotments under section [125] 124, there are authorized to be appropriated \$77,400,000 for fiscal year [1991] 1994 and such sums as may be necessary for each of the fiscal years [1992 and 1993] 1995 and 1996.

RATIONALE

Section 127. Appropriations during the last reauthorization period and several prior years have not kept pace with inflation. The 1993 appropriations were cut by 1% and did not reach even the FY 1991 authorization level. In 1993, approximately 28 states experienced a reduction in allotment over 1992. The CCD recommendation retains the FY 1991 authorization level as a realistic starting point for actual appropriations beginning in FY 1994.

PART C---PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

PURPOSE

SEC. 141. It is the purpose of this part to provide for allotments to support a Protection and Advocacy System in each State to protect the legal and human rights of [persons] people with developmental disabilities in accordance with section 142[.], hereinafter referred to as "the system."

SYSTEM REQUIRED

SEC. 142. (a) In order for a State to receive an allotment under part [B] C--

(1) establishment of system - no change

(2) Such system must--

(A) have the authority to--

(i) pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of [such persons] people within the State who are or who may be eligible for treatment, services, or habilitation, or who are being considered for a change in living arrangements, with particular attention to members of ethnic, cultural, linguistic and geographical minority groups; and

(ii) provide information on and referral to programs and services addressing the needs of [persons] people with developmental disabilities;

(B) have the authority to investigate incidents of abuse and neglect of [persons] people with developmental disabilities if the incidents are reported to the system or if there is probable cause to believe that the incident occurred;

(C) on an annual basis, develop a statement of objectives and priorities, and provide to the public, including [persons] people with developmental disabilities and their representatives, as appropriate, non-State agency representatives of the Developmental Disabilit[y]ies Council and the university affiliated program (if applicable within a State), an opportunity to comment on the objectives and priorities established by, and activities of the system, including--

(i) the objectives and priorities for the system's

activities for each year, and the rationale for the establishment of such objectives, including a summary of comments received from the public review process and the manner in which those comments were addressed; [and]

(ii) The Secretary shall convene a review committee consisting of individuals with disabilities and family members to review the annual statement of priorities, including representatives who are non-agency members of Developmental Disabilities Councils. Such committee will submit to the Secretary a report which identifies those systems that have not complied with the requirements of this section for establishing objectives and priorities and providing public comment thereon.

(iii) the coordination with the advocacy programs set out in the Rehabilitation Act of 1973, the Older Americans Act of 1965, [and] the Protection and Advocacy for the Mentally Ill Act[.], Parent Training and Information Centers, education ombudsman programs and assistive technology projects.

(iv) Protection and Advocacy Systems should provide assurance to the Secretary that persons with all developmental disabilities, including those with physical impairments, mental impairments or a combination of physical and mental impairments shall have access to P&A services, subject to established priorities.

- (D) establish a grievance procedure for clients or prospective clients of the system to assure that [persons] people with developmental disabilities have full access to services of the system;
- (E) not be administered by the State [Planning] Council authorized under Part B;
- (F) be independent of any agency which provides treatment, services, or habilitation to [persons] people with developmental disabilities; and
- (G) permit immediate access to any resident who is a person with a developmental disability in a facility which is providing care and treatment to a person with developmental disabilities;
- (H) have access to all records of--
 - (i) any person with developmental disabilities who is a client of the system if such person, or

the legal guardian, conservator, or other legal representative of such person, has authorized the system to have such access;

- (ii) any person with developmental disabilities--
 - (I) who, by reason of their mental or physical condition [of such person], is unable to authorize the system to have such access;
 - (II) who does not have a legal guardian, conservator, or other legal representative, or for whom the legal guardian is the State; and/or
 - (III) with respect to whom a complaint has been received by the system or with respect to whom as a result of monitoring or other activities there is probable cause to believe that [such] the person has been subject to abuse or neglect; and

(iii) no change

(I) In the event that an individual or individuals are fearful of retaliation in requesting services from the system, have the authority to pursue remedies under this section in the name of the system on behalf of such individual or individuals.

(J) have the authority to educate policy makers.

- (3) the State must provide assurances to the Secretary that
 - (i) funds allotted to the State under this section will be used to supplement and increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant such non-Federal funds;

(ii) the program is hiring and maintaining sufficient numbers of staff qualified by training and experience to carry out its function except that such State law shall not apply hiring freezes or other personnel restriction to personnel and positions or restrict travel to training and technical activities funded under this Act;

(iii) [(4)][the State must provide assurance to the Secretary that] ... no change in ICFMR surveys and plans of correction provision

(iv) [(5)] [the State must provide assurances satisfactory to the Secretary that]... no change in redesignation provisions

(b)(1) Allotments - no change

- (A) the total amount appropriated under section 143 for the fiscal year is at least \$24,500,000--

(i) the allotment of each American Samoa, Guam, the Virgin Islands [and], the Trust Territory of the Pacific Islands, and any Native American consortium for such fiscal year shall not be less than \$107,000 and this system shall

(I) make an application to the Secretary to provide services under Part C of this Act

(II) serve more than one contiguous State with more than one tribe.

(III) The total population for such system shall exceed 150,000 people.

(ii) no change

(B) the total amount appropriated under section 143 for a fiscal year is less than \$20,000,000, the allotment to each State (other than Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, and any Native American consortium) shall not be less than \$150,000, and the allotment of each of American Samoa, Guam, the Virginia Islands, the Commonwealth of the Northern Mariana Islands and, the Trust Territories and any Native American consortium for such fiscal year shall not be less than \$80,000.

(B)(2) through (4) no change

(5) In any year that appropriations are not sufficient to allow for a system to receive the allotment it received in the previous year, the allotment will remain at the level of the previous year except that if the appropriations are below the previous year amount, the allotments will be based on the formula established in Section 124(a)(3).

(c) Unobligated funds - no change

(d) In States in which the system is organized as a private nonprofit entity with a multimember governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system, except that--

(1) the governing board shall be composed of members who broadly represent and/or are knowledgeable about the needs of the individuals served by the system;

(2) not more than 1/3 of the membership of the governing board may be appointed by the chief executive officer of the State involved, in the case of any State in which

such officer has the authority to appoint the membership of the board; and

(3) any vacancy in the board shall be filled not later than 60 days after the date on which the vacancy occurs.

(4) in States in which the system is organized as a public system without a multi-member governing or advisory board, the system shall establish an advisory council which

(A) will advise the system on policies and priorities to be carried out in protecting and advocating the rights of people with developmental disabilities;

(B) shall consist of individuals who have received or are receiving services and family members of such individuals.

(e) through (h) - no change

(i) for purposes of any periodic audit, report, or evaluation required under this Act, 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.

(j) In any case in which amounts appropriated under Section 143 for a fiscal year exceeds \$24,500,000, the Secretary shall use not more than 2 percent of the amounts appropriated to provide technical assistance to eligible systems with respect to activities carried out under this title, consistent with requests by such systems for such assistance in the year that appropriations reaches \$24,500,000.

AUTHORIZATION OF APPROPRIATIONS

SEC. 143. For allotments under section 142, there are authorized to be appropriated [\$24,200,000] \$30,000,000 for fiscal year [1991] 1994, and such sums as may be necessary for each of the fiscal years [1992] 1995 and [1993] 1996.

RATIONALE

General. People first language is used throughout and language is simplified to some extent to make it more understandable to people who use the DD Act as a device to learn about the programs and their values.

Section 142(a)(1)(C)(i), (ii) and (iii). A recommended provision is added to include a summary of public comments in the P&A annual statements of objectives and priorities, as well as the disposition of those comments. CCD recommends that the statute mandate a process by which the Administration on Developmental Disabilities would review Program Performance Reports and Statements of

Priorities and Objectives, involving people affected by the Act directly or through their representatives, including representatives of the non-agency members of DD Councils. CCD also recommends language which would connect P&As with education ombudsman projects, assistive technology projects, parent training centers and other advocacy programs. Other language would require uniform regulations and policy from ADD, CMHS and RSA.

Section 142(a)(2)(c)(iv). This new reference should be accompanied by report language which clearly states that children with serious emotional disturbance are covered by the P&A law, if they meet the definition of developmental disabilities.

Section 142(a)(2)(g). This section parallels language similar to authority in the Social Security Act to give access to individuals residing in nursing homes to designated Protection and Advocacy Systems. Currently, the nursing home regulations grant unlimited access to P&A agencies to represent residents of nursing homes receiving federal funds. CCD recommends using such language in the DD P&A authority.

Section 142(a)(2)(I). In certain situations, people with developmental disabilities may fear retaliation for contacting Protection and Advocacy agencies. This provision would allow P&As to intervene in their own name in order to advocate for the clients and not further jeopardize their status.

Section 142(a)(2)(J). Language is recommended which would allow legislative activities to further the interest of specific clients of the P&A agency. CCD will suggest report language which describes collaboration by P&A and Councils about their respective activities to educate policy makers.

Section 142(a)(3). Language is recommended which would assure that P&As are not restricted in the authorized use of their Federal funds.

Section 142(a)(3)(iii) and (iv). Items are renumbered. Language is recommended to remove assurances from the Governor's office and require the program to make the assurances. Governors retain the right to redesignate the agency for good cause.

Section 142(b)(1)(A)(iii). Create a process for establishing specific units to serve larger Native American reservation populations. CCD supports the proposal of the multi-tribe consortia in contiguous states with populations over 150,000 to apply for a P&A at territorial levels. The statute should mandate relations with existing P&A and phasing in when the appropriations are sufficient to hold harmless existing programs.

Section 142(b)(5). CCD recommends language which would freeze the implementation of the formula if appropriations for a given year were level or only slightly higher that would result in cuts to certain programs.

Section 142(d)(4). CCD recommends requiring that State agencies that do not have governing boards establish advisory councils, parallel to PAMI Advisory Councils.

Section 142(i). CCD recommends adopting the Rehabilitation Act language on protecting confidentiality of client records from federal reviewers.

Section (142)(j). CCD recommends language providing for a set aside of up to 2% for training and technical assistance, similar to the Protection and Advocacy for Individuals with Mental Illness (PAIMI) program. This set aside would take effect when the appropriation reached a particular amount to assure that no programs would lose funding.

Section 143. CCD recommends an authorization of appropriations of \$30,000,000 for FY 1994 and such sums thereafter.

PART D -- UNIVERSITY AFFILIATED PROGRAMS

PURPOSE

Sec. 151. The purpose of this part is to provide for grants to university affiliated programs to assist in the provision of [interdisciplinary training, the demonstration of exemplary services and technical assistance, and the dissemination of information] interdisciplinary preparation of personnel, service and support integral to community needs, the dissemination of information and research findings which will increase and support the independence, productivity, and integration in the community of [persons] people with developmental disabilities.

GRANT AUTHORITY

Sec. 152 (a) From appropriations under section 154(a), the Secretary shall make grants to university affiliated programs to assist in the administration and operation of the activities described in section 102[(18)](32).

(b) (1)(A) From amounts appropriated under section 154(b), the Secretary shall make grants to university affiliated programs receiving grants under subsection (a) to support training projects to train personnel to address the needs of persons with developmental disabilities in areas of emerging national significance, particularly projects to train personnel in the areas of early intervention programs (as described in paragraph (2)), programs for elderly [persons] people with developmental disabilities (as described in paragraph (3)), community-based service programs (as described in paragraph (4)), positive behavior management programs (as described in paragraph (5)), assistive technology programs (as described in paragraph (6)), programs on the requirements of the Americans with Disabilities Act (as described in paragraph (7)), and programs in other areas of national significance as determined by the university affiliated program, in consultation with the State [Planning] Council (as described in [paragraph (8)] Part B).

(B) (i) If the total amount appropriated under Section 154(b) is at least \$4,200,000, grants awarded under this subsection shall be in the amount of [\$90,000] \$100,000.

(ii) If an appropriately convened peer review panel determines that applications submitted by university affiliated programs for training programs under this part in any fiscal year insufficiently address quality criteria established under subparagraph (D), the Secretary shall, pursuant to regulations issued under this Act, award any amounts available for carrying out the purposes of

this section to other university affiliated programs which the Secretary determines will use the funds in accordance with subsection (b)(1)(B)(i).

- (C) Grants under this section shall be awarded on a competitive basis. Grants under this section shall be awarded for a period of [3 years] up to 5 years.
- (D) The Secretary shall require appropriate technical assistance and qualitative peer review of applications for assistance under this subsection by peer review groups as established under Section 153(e)(4) using the following criteria:
 - (i) The university affiliated program shall present evidence that core training assisted by funds awarded under this section is-
 - (I) competency and value based;
 - (II) designed to facilitate independence, productivity and integration for persons with developmental disabilities; and
 - (III) evaluated utilizing state of the art evaluation techniques in the programmatic areas selected.
 - (ii) Core training shall --
 - (I) represent state-of-the-art techniques in areas of critical shortage of personnel which are identified through consultation with the citizens advisory group designated pursuant to section (f) and the State [Planning] Council;
 - (II) be conducted with the citizens advisory group designated under subsection (f) and the [s]State [developmental disabilities Planning] [c]Council.
 - (III) be integrated into the appropriate university affiliated program and university curriculum;
 - (IV) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;
 - (V) to the extent practicable, be conducted in environments where services are actually delivered; and
 - (VI) to the extent possible, be interdisciplinary in nature.
- (E)
 - (i) Grants awarded under this section shall not be used for administrative expenses.
 - (ii) Grants awarded under this subsection shall not be used to carry out the provision of subsection (a);
- (F) Grants under this subsection may be used by

university affiliated programs to (i) assist in paying the costs of courses of training or study for personnel to provide services for [persons] people with developmental disabilities and (ii) establish fellowships or traineeships providing such stipends and allowances as may be determined by the Secretary.

- (2) Grants under this subsection for training projects with respect to early intervention programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and of the personnel who provide or who will provide, interdisciplinary intervention to infants, toddlers, and preschool age children with developmental disabilities. Such training projects shall include instruction on methods of working and collaborating with professionals and families of persons with developmental disabilities.
- (3) Grants under this subsection for training projects with respect to programs for elderly [persons] people with developmental disabilities shall be for the purpose of supporting the planning, design, and implementation or coordinated interdisciplinary training programs between existing aging or gerontological programs and university affiliated programs in order to prepare professional staff to provide services for elderly [persons] people with developmental disabilities.
- (4) Grants under this subsection for training projects with respect to community-based programs shall be for the purpose of providing direct supports and services for [persons] people with developmental disabilities, including paraprofessionals who are employed or are preparing to be employed in community-based day programs or residential programs for [persons] people with developmental disabilities. The Secretary shall ensure that all grants under this paragraph are made only to university affiliated programs that involve local community-level direct care programs and paraprofessional training programs in the preparation of the application for such grant and shall assure that any training under the university affiliated program will be coordinated with [local programs] state, local and regional governmental or private agencies responsible for the planning or delivery of services to people with developmental disabilities.
- (5) Grants awarded under this subsection for training projects with respect to positive behavior management intervention programs shall be for the purpose of assisting university affiliated program in providing training to families, foster parents, professionals, other appropriate community-based staff, and institutional staff, including health care staff and

behavioral specialists, who provide or will provide, positive behavior management interventions for persons with developmental disabilities. Such training interventions shall include --

- (A) ethical principles and standards;
- (B) appropriate assessment of the origin of behavior problems including antecedent behaviors, the environment, medical problems (including seizure disorders), other neurological problems, or medication side effects;
- (C) the development of a positive behavior management plan;
- (D) the use of positive reinforcements appropriate to the developmental level of the person;
- (E) the use of emergency procedures; and
- (F) the administration of appropriate psychotropic drugs including drugs which the person may be taking for other condition such as seizure disorders.

(6) Grants under this subsection for training projects with respect to assistive technology programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide or will provide, assistive technology services to people with developmental disabilities. Such projects may provide training and technical assistance to improve the quality of service delivery in community-based, nonprofit consumer and provide service programs for persons with developmental disabilities and may include stipends and tuition assistance from such organizations. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

(7) Grants under this subsection for training projects with respect to the provisions of the Americans with Disabilities Act shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide or will provide, services to people with developmental disabilities.

[7](8) Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State [Planning] Council.

(c) From amounts appropriated under section 154(b), the Secretary may make grants to university affiliated programs receiving grants under subsection (a) to support one or more of the following activities:

(1) the provision of service-related training to persons with developmental disabilities, family members of such persons, professionals, volunteers, or other personnel to enable such person, family members, professional, volunteers to provide services to increase or maintain the independence, productivity and integration into the community of [persons] people with developmental disabilities.

(2) The conduct of an applied research program designed to produce more efficient and effective methods of (A) the delivery of services to [persons] people with developmental disabilities, and (B) the training of professional, paraprofessionals, and parents who provide such services.

(d) From amounts appropriated under section 154(a), the Secretary may make grants to pay part of the costs of establishing satellite centers and may make grants to satellite centers to pay part of their administration and operation costs. A satellite center which receives a grant under this section may engage in the activities described in subparagraph (A)(B) or C of section 102(18) and may compete for grants under subsection (b) and (c).

(e) From amounts appropriated under section 154(a), the Secretary may make a grant to a university or a public or non-profit entity which is associated with, or is an integral part of a [college or university] an institution of higher education, to study the feasibility of establishing a university affiliated program or a satellite center. Such study shall include an assessment of the needs of the area in which the [university] institution of higher education is located for such a program or center. The amount of a grant under this subsection may not exceed \$35,000 for any fiscal year. A grant under this subsection may only be made in a State in which there is no university affiliated program or satellite center.

(f) The Secretary shall only make grants under this section to university affiliated programs which establish a consumer advisory committee comprised of consumers, family members, representatives of State protection and advocacy systems, developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for [persons] people with developmental disabilities.

(g) A university affiliated program shall not be eligible to receive funds for training projects pursuant to this section unless

--

- (1) such program has operated for at least one year; or
- (2) the Secretary determines that such project has demonstrated the capacity to develop an effective training program during the first year such program is operated.

APPLICATIONS

Sec. 153(a) Not later than [six] twelve months after the date of the enactment of the Developmental Disabilities Act of [1984] 1993, the Secretary shall establish by regulation standards for university affiliated programs. Such standards shall reflect the special needs of all [persons] people with developmental disabilities who are of various ages, and shall include performance standards relating to each of the activities described in section 102(18).

- (1) The Secretary must establish a process for university affiliated programs to appeal the evaluations of their core program and training. (Note: specific language on the appeals process is currently being developed.)

(b) Grants shall be made under section 152(a) and 152(b) within the same application. No grants may be made under section 152(a) unless an application therefore is submitted to, and approved by, the Secretary. [Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require.] Such an application shall be approved by the Secretary only if the application contains or is supported by reasonable assurance that --

- (1) the making of the grant will (A) not result in any decrease in the use of State, local, and other non-Federal funds for services for [persons] people with developmental disabilities and for training of persons to provide such services, which funds would (except for such grant) be made available to the applicant, and (B) be used to supplement and, to the extent practicable, increase the level of such funds;
- (2) (A) the applicant's program is in full compliance with the standards established under subsection (a), or
(B)(i) the applicant will make substantial progress toward bringing the program into compliance with such standards and
(ii) the program will, not later than three years after the date of approval of the initial application or the state standards are promulgated under subsection (a), whichever is later, fully comply with such standards;
- (3) the human rights of all [persons] people with developmental disabilities (especially those persons without familial protection) who are receiving treatment, services, or habilitation under the programs assisted under this part will be protected consistent with section 110 (relating to rights of [the developmentally disabled] people with developmental disabilities);
- (4) the activities conducted under this part are consistent with, and to the extent feasible, complement and further,

the objectives contained in the State plan required under section 12[2]4; and

- (5) before the submission of such application, an opportunity for comment has been provided to the general public and the State Planning Council of the State in which the program will be conducted or the satellite center is or will be located.

(c) The Secretary shall establish a procedure for the review of applications for grants under section 152(a) as will ensure, to the maximum extent feasible, that each Federal Agency that provide funds for the direct support of the applicant's program reviews the application.

(d) If a grant awarded section 152(a) fails to comply with standards described in section 153(a), the grant must be recompeted for a university affiliated program.

[(d)] (e)(1) If the total amount appropriated under section 154(a) for a fiscal year is at least [\$8,500,000] \$15,000,000, and every eligible university affiliated program has been awarded one grant under section 152(b), the amount of any grant under section 152(a) to a university affiliated program shall not be less than [\$200,000] \$250,000 for such fiscal year and the amount of any grant under section 152(c) to a satellite center shall not be less than \$150,000 for such fiscal year.

- (2) If the total amount appropriated under section 154(a) is [less than \$8,500,000] at least \$12,000,000, the amount of any grant under section 152(a) to a university affiliated program shall not be less than [\$150,000] \$200,000 for such fiscal year and the amount of any grant under section 152(c) to a satellite center shall not be less than [\$75,000] \$150,000 for such fiscal year.

- (3) (A) For purposes of making grants under section 152(a), the Secretary shall consider applications for grants for [four] university affiliated programs or satellite centers for [each of the fiscal years 1991, 1992, and 1993] States that are currently unserved by university affiliated programs which are in addition to the total number of university affiliated programs and satellite centers receiving grants under such section for the proceeding fiscal year. The Secretary shall solicit and may approve applications pursuant to this paragraph which encompass multiple universities with the same State university system or two or more universities which are otherwise unrelated.

- (B) [Such programs and centers shall, to the extent feasible, be geographically distributed for the purpose of serving States that are unserved by university affiliated programs and satellite

centers under this part of the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1990. If an insufficient number of quality applications, as determined by a peer review process, from such unserved States have not been received in any fiscal year, the Secretary may consider applications for such fiscal year from States that are served by a university affiliated program or satellite center which is not able to serve particular geographic regions of the State, only if such applications demonstrate a need for additional training within the State and an exemplary service capacity to serve individuals within the State.] Grants awarded under section 152(a) may be awarded for a period of up to five years.

- (C) [The Secretary may not deny an application for a university affiliated program or satellite center solely because of the size of the population proposed to be served by the program or center, if such application proposes to serve the population of an entire State.]
- (e) (1) The Secretary shall require appropriate technical and qualitative peer review of applications for assistance under this part by peer review groups established under paragraph (4), including on-site visits or inspections as necessary. Such peer review shall be coordinated, as appropriate, with the peer review described in section 152(b)(1)(D).
- (2) Regulations promulgated under paragraph (1) shall provide that the review of the application required by such paragraph shall be conducted by groups established under paragraph (4) that are composed of non-Federal individuals who, by experience or training, are highly qualified to assess the comparative quality of applications for assistance.
- (3) (A) The Secretary may approve an application under this part only if such application has been recommended by a peer review group that has conducted the peer review required under paragraph (1).
- (B) This paragraph shall apply to the approval of grant applications received for fiscal year [1990] 1994 and succeeding fiscal years.
- (4) The Secretary, acting through the Commissioner of the Administration on Developmental Disabilities, may, notwithstanding --
 - (A) the provision of title 5, United States Code, concerning appointments to the competitive service;
 - (B) the provision of chapter 51, and subchapter III of chapter 53 of title establish such peer review

groups as are necessary to carry out this subsection, and appoint and set the rates of pay for members of such groups.

- (5) The Secretary may waive the provisions of paragraph (3) concerning approval of an application if the Secretary determines that exceptional circumstances warrant such a waiver.

AUTHORIZATION OF APPROPRIATIONS

Sec. 154(a) For the purpose of grants under subsection (a) and (d), [and (e)] of section 152, there are authorized to be appropriated [\$11,000,000] \$15,000,000 for fiscal year [1991] 1994, and such sums as may be necessary for each of the fiscal years [1992 and 1993] 1995 and 1996.

(b) For the purpose of grants under section 152(b) and 152(c), there are authorized to be appropriated [\$5,500,000] \$12,000,000 for fiscal year [1991] 1994, and such sums as may be necessary for each of the fiscal years [1992 and 1993] 1995 and 1996.

(c) [The secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b).] The Secretary may not use funds appropriated under subsections (a) and (b) for peer review or other administrative activities.

RATIONALE

General. Throughout, "people first" terminology has been used.

Section 151. This section is amended to reflect the new UAP definition.

Section 152(b)(1)(A). CCD believes that allied health professionals must be trained on the provisions and mandates of the Americans with Disabilities Act. The ADA is added to the topic list for training initiatives.

Section 152(b)(1)(B)(i). Training initiative grants are raised to \$100,000.

Section 152(b)(1)(C). Training initiatives may be awarded up to 5 years. CCD will draft report language that recommends that training initiatives may be adjusted within the five year period.

Section 152(b)(7). This new section describes the new ADA training initiative.

Section 152(e). The terminology is updated in this section to reflect the new UAP definition.

Section 153(a). This section sets a new deadline for UAP standards to be established. It also calls for the Secretary to establish an appeals process for UAPs to question their evaluations.

Section 153(a)(1). Suggested report language. The Secretary must develop specific timelines for the review process of a UAP appeal. For example, the UAP would have 90 days to develop the plan of correction. The Commissioner would have 30 days to review and take action. If necessary, the Assistant Secretary would have 30 days to review and take action. The action of the Secretary would be final.

Section 153(b). This section states that UAPs may apply for administrative awards and training initiatives within one application.

Section 153(d). This new section states that if a currently funded UAP loses its funding, those ADD dollars must be recomputed for an UAP.

Section 153(e). This new section provides that if appropriations are sufficient to fund a training initiative at every eligible UAP, then UAP administrative grants may be increased to \$250,000. In addition, new UAPs may only be awarded to states that are currently underserved. Grants may be awarded on 5 year cycles.

Section 153(f). This section is redesignated. CCD will provide report language to clarify the membership of peer review groups and non-federal individuals who by experience or training are involved in assessing the quality of UAPs.

Section 154. Authorization levels are increased to reflect the priorities of the reauthorization. A provision is added that prohibits the Secretary from using program funds for administrative activities.

PART E--PROJECTS OF NATIONAL SIGNIFICANCE

PURPOSE

SEC. 161. The purpose of this part is to provide for grants and contracts for projects of national significance [to increase and support the independence, productivity, and integration into the community of persons with developmental disabilities, and] which [to] support the development of national and State policy [which] to enhance[s] the independence, productivity, [and] integration and inclusion of people with developmental disabilities through --

(a) data collection and analysis,

(b) technical assistance to enhance the quality of DD Councils, Protection and Advocacy Systems and University Affiliated Programs [program components],

(c) other projects of sufficient size and scope [and] which hold promise [of] to expanding] or [otherwise] improv[ing] opportunities for [persons] people with developmental disabilities including --

- (1) technical assistance for the development of information and referral systems,
- (2) educating policy makers,
- (3) Federal interagency initiatives, and
- (4) the enhancement of minority participation in public and private sector initiatives in developmental disabilities[.], and

(d) special pilots and evaluation studies to explore the expansion of the Part B programs to people with severe disabilities other than developmental disabilities.

GRANT AUTHORITY

SEC. 162.(a) The Secretary [may] shall make grants to and enter into contracts with public or nonprofit private entities for [-- (1)] projects of national significance relating to [persons] people with developmental disabilities, [including] to --

(1) support ongoing data collection on expenditures, residential services and employment, develop an on-going data collection system, including data collection on the accomplishments of Developmental Disabilities Councils, Protection and Advocacy Systems and University Affiliated Programs;

(2) provide technical assistance [and demonstration projects] (including research, training, and evaluation) [in connection with such projects] which expand or improve the [functions] effectiveness of [the] State [Planning] Developmental Disabilities Councils[,] under part B, [the functions performed by] university affiliated programs and satellite centers under part D, and protection and

advocacy systems [described in section 142] under part C, including [Projects for] the evaluation and assessment of the quality of services provided [persons] people with developmental disabilities and other activities performed by programs under parts B, C, and D; [which meet the requirements of subparagraphs (A), (B), and (C) of paragraph (1) may be included as projects for which grants are authorized under such paragraph.] and

(3) other nationally significant initiatives of sufficient size and scope [and] which hold promise of expanding or otherwise improving opportunities for [persons] people with developmental disabilities, including--.

(A) [determine the feasibility and desirability of developing a nationwide] conducting research and providing technical assistance to assist States to develop state-wide, comprehensive information and referral and service coordination systems for people with developmental disabilities and their families and [to] improve supportive living and quality of life opportunities which enhance recreation, leisure and fitness;

(B) [projects to] educat[e]ing policy makers, including the training of self-advocates and parents of people with developmental disabilities;

(C) pursu[e]ing Federal interagency initiatives which enhance the ability of Federal agencies to address the needs of people with developmental disabilities and their families; and

(D) [other projects of sufficient size and scope and which hold promise of] expanding or otherwise improving opportunities for [persons] people with developmental disabilities [(especially those who have multiple disabilities or are disadvantaged, including minority groups, Native Americans, Native Hawaiians, and other underserved groups);] who are of cultural, linguistic, ethnic and geographical minority groups, including projects to encourage members of such groups to participate in the Developmental Disabilities Programs authorized under Parts B, C, and D, and increase the involvement of students and professionals of such groups in the provision of services, supports to and advocacy for people with developmental disabilities.

(b) Beginning in fiscal year 1994, there shall be a special initiative to support grants to investigate the expansion of part B activities to people with severe disabilities other than developmental disabilities. Such investigations shall be implemented through --

- (1) a national study of State Developmental Disabilities Councils which are currently mandated under State law or Executive order to focus on people with disabilities other than developmental disabilities, to be completed no later than June 30, 1995;
- (2) pilot initiatives by five additional Developmental Disabilities Councils to study the implications of expansion in such states, and to delineate barriers, opportunities and critical issues; applications for such pilots shall be in consultation with and with the support of the Protection and Advocacy System and the University Affiliated Program in such state, to be completed no later than June 30, 1995; and
- (3) a national study of the process and outcomes of the five pilot studies conducted under (2) to be completed no later than May 30, 1996.

(c) No grant may be made under subsection (a) unless

- (1) an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe. The Secretary may not approve such an application unless each State in which the applicant's project will be conducted has a State plan approved under section 122;
- (2) [and unless] the application provides assurances that the human rights of all persons with developmental disabilities (especially those [persons] people without familial protection) who are receiving treatment, services, or habilitation under projects assisted under this part will be protected consistent with section 110 (relating to the rights of [the developmentally disabled] people with developmental disabilities; and
- (3) the Secretary shall provide to the State Planning Council in each State an opportunity to review the applications for such project and to submit its comments on the application.

(d) Not later than January 1 of each year, the Secretary shall publish in the Federal Register proposed priorities for grants and contracts under this part and shall allow a period of 60 days for public comments and suggestions concerning such proposed priorities. After analyzing and considering such comments, the Secretary shall publish final priorities for such grants and contracts in the Federal Register.

(e) Payments under grants under subsection (a) may be made in advance or by way of reimbursement and at such intervals and on such conditions, as the Secretary finds necessary. The amount of

any grant under subsection (a) shall be determined by the Secretary, except as otherwise provided under Section 163.

(f) The Secretary shall publish in the Federal Register, no later than September 1 of each fiscal year, a list of the recipients of grants and contracts in each of the areas authorized in Sec. 162(a)(1) through (8), including a brief description of the project, and the amount of funds granted to each. The amounts for such grants and contracts shall total the amount appropriated under this part for such fiscal year.

SECTION 163. AUTHORIZATION OF APPROPRIATIONS

(a) IN GENERAL. To carry out [this] part E, there are authorized to be appropriated [\$3,650,000] \$4,050,000 for fiscal year [1991,] 1994 and such sums as may be necessary for each of the fiscal years [1992] 1995 and [1993] 1996.

(b) LIMITATIONS.

(1) At least \$3,200,000 of the funds appropriated pursuant to 162(a), shall be used to carry out the provisions of subsection 162(a)(1)(2) and (3);

(2) At least 8 percent, but not less than \$300,000, shall be used to carry out the provisions of subsection 162(a)(2).

(3) If amounts appropriated under Part E exceed \$3,350,000, at least \$150,000 shall be used to carry out the provisions of (162(b)(1).

(4) If amounts appropriated under Part E exceed \$4,050,000, at least \$500,000 shall be used to carry out Section 162(b)(2) annually and \$200,000 shall be used to carry out Section 162(b)(3).

(5) Should appropriations permit Section 162(b)(1)(3) and (4), the Administration shall fund such initiatives no later than May 1 of the fiscal year in which funds become available.

RATIONALE

General. Part E has been re-structured for clarity. With one exception, Section 161 contains current priorities. CCD recommends adding a new initiative discussed below. Because of CCD's long-standing concern regarding the setting of priorities for Projects of National Significance, it is recommended that the Secretary appoint a standing advisory group with the responsibility to advise as to the PNS priorities for ADD annually and to review, evaluate and report on the results of the previous year's projects. This would be a separate group from any advisory group on data-collection and policy research.

Section 162(a)(1). CCD recommends continuing to fund the current recurring data sets on expenditures, residential services and

supported employment, which are very valuable to the developmental disabilities field. CCD has a concern, however, which we recommend be addressed in report language as follows: "The Committee recognizes that the on-going data collection is essential for evaluating current and shaping future public policy on behalf of people with developmental disabilities; however, the Committee is also aware that much of the data has been collected on people with mental retardation rather than developmental disabilities. Therefore the Committee urges the Secretary to ensure that future data collection, with each successive report, represents a more inclusive population of people with developmental disabilities."

CCD has had a concern for many years that, given the limited funding available, the Administration has failed to develop a targeted plan for its data collection, including a dissemination plan. CCD therefore recommends that the Secretary of HHS, through the Assistant Secretary for Planning and Evaluation, establish a panel of departmental and disability community representatives, with input from the National Institute on Disability Rehabilitation Research, to develop a coordinated long range data collection plan which will also make recommendations regarding the areas of research most needed in developmental disabilities. It is strongly recommended that this panel be established no later than October 1, 1994.

In addition, the Administration has not systematically collected data on the programs it manages, hence, the field has little aggregate information about them. CCD recommends that annual data be gathered on Parts B, C, and D as part of the Administration's on-going data collection responsibilities.

Section 162(a)(3). All currently authorized Projects of National Significance authorities are included in this section.

Section 162(a)(3)(A). Regarding information and referral systems, CCD recommends targeting this initiative in a different manner than currently. I&R systems are configured and, by and large, funded, at the State level. A Project of National Significance should study the various models for dissemination throughout the country. In addition to the need for accessible information and referral, one frequent recommendation made by individuals and families in the 1990 Reports to Congress was that there is no state-wide and comprehensive system of services coordination. CCD recommends adding an investigation of these "systems" as well.

Section 162(a)(3)(B). CCD recommends that projects to educate policy makers can include training for self-advocates and parents in working with policy makers at all levels.

Section 162(a)(3)(C). Pursuit of interagency initiatives has been an under-used authority. CCD believes it is timely for the Administration on Developmental Disabilities to work more closely with other federal agencies on policy change on behalf of people with developmental disabilities.

Section 162(a)(3)(D). CCD recommends that current "minority initiatives" be clarified and expanded to include methods to serve more appropriately individuals with developmental disabilities from cultural, ethnic, linguistic and geographical minorities and to involve minority professionals to provide services and supports to people with developmental disabilities.

Section 162(b). This new section provides further detail on the authority under 161 to explore expansion of the Part B program to people with disabilities other than developmental disabilities and the national studies needed to plan for the future. Specifically, this provision responds to the increasing desires of the disability community to benefit from the systems change activities of State Developmental Disabilities Councils. Due to the complexity of this issue, CCD proposes the creation of a special set of activities intended to examine, during the next authorization period, how this can be done at the State level. All of the initiatives under (b) need to begin as soon after October 1, 1993 as possible and should be put on a "fast track" to ensure sufficient time for the relevant Councils to move ahead on conducting the related national studies and preparing a report to Congress prior to the next DD Act reauthorization.

Section 162(b)(1). The first step, to begin in FY 1994, would be to study those Councils which have already expanded through State law or Executive Order to other populations. There are at least six, as identified by an NADDC survey to which 45 of the 56 Councils have responded to date.

Section 162(b)(2). The second step, to begin as soon as the appropriations trigger is reached, would allow five Councils to apply for grants of at least \$100,000 each to experiment with expansion of the DD programs beyond people with developmental disabilities. A concern CCD has is that these efforts be given sufficient time to have results (at least two years).

Section 162(b)(3). The third step, to begin simultaneously with the start of the pilots in (b)(2), would be a national study to pull together and analyze the experiences in these Councils, develop recommendations, and report the results to Congress

Section 162(f). Finally, CCD recommends that the Administration be required to publish what it funds and at what funding levels so the public and Congress can know how these funds are spent.

Section 163. In recommending authorized appropriations, CCD has tried in the past to bring some order to the manner in which Projects of National significance are funded. CCD makes such a recommendation again, by earmarking each authority with either an amount or a percentage of the total appropriation. CCD believes it is very important that the new initiative (b) be undertaken, however, not at the expense of other initiatives. Therefore CCD recommends a "trigger" after which the new initiatives can begin. Recommended appropriations are:

\$3,200,000	to hold harmless current activities
150,000	for a study of already expanded Councils
500,000	for five pilots at \$100,000 each
200,000	for national study and analysis of pilots
\$4,050,000	Total needed

DD ASSISTANCE AND BILL OF RIGHTS AMENDMENTS OF 1994

ADDS NEW FINDINGS
re disability

Q: williams shop re summary

3/28

saved as c:ddamend

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 1284, DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT AMENDMENTS OF 1994

Mr. WAXMAN submitted the following conference report and statement on the Senate bill (S. 1284) to amend the Developmental Disabilities Assistance and Bill of Rights Act to expand or modify certain provisions relating to programs for individuals with developmental disabilities, Federal assistance for priority area activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes:

CONFERENCE REPORT (H. REPT. 103-442)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1284), to amend the Developmental Disabilities Assistance and Bill of Rights Act to expand or modify certain provisions relating to programs for individuals with developmental disabilities, Federal assistance for priority area activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994".

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

- Sec. 1. Short title; table of contents.
- Sec. 2. References.

TITLE I—GENERAL PROVISIONS

- Sec. 101. Headings and short title.
- Sec. 102. Findings and purposes.
- Sec. 103. Definitions.
- Sec. 104. Federal share.
- Sec. 105. Records and audits.
- Sec. 106. Recovery.
- Sec. 107. State control of operations.
- Sec. 108. Reports.
- Sec. 109. Responsibilities of the Secretary.
- Sec. 110. Employment of handicapped individuals.
- Sec. 111. Rights of the developmentally disabled.

TITLE II—FEDERAL ASSISTANCE FOR PRIORITY AREA ACTIVITIES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

- Sec. 201. Part heading.
- Sec. 202. Purpose.
- Sec. 203. State plans.
- Sec. 204. Habilitation plans.
- Sec. 205. Councils.

- Sec. 206. State allotments.
- Sec. 207. Federal share and non-Federal share.
- Sec. 208. Payments to the States for planning, administration, and services.

- Sec. 209. Withholding of payments for planning, administration, and services.

- Sec. 210. Nonduplication.
- Sec. 211. Appeals by States.
- Sec. 212. Authorization of appropriations.
- Sec. 213. Review, analysis, and report.

TITLE III—PROTECTION AND ADVOCACY OF THE RIGHTS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

- Sec. 301. Part heading.
- Sec. 302. Purpose.
- Sec. 303. System required.
- Sec. 304. Authorization of appropriations.

TITLE IV—UNIVERSITY AFFILIATED PROGRAMS

- Sec. 401. Part heading.
- Sec. 402. Purpose.
- Sec. 403. Grant authority.
- Sec. 404. Applications.
- Sec. 405. Grant awards.
- Sec. 406. Authorization of appropriations and definition.

TITLE V—PROJECTS OF NATIONAL SIGNIFICANCE

- Sec. 501. Part heading.
- Sec. 502. Purpose.
- Sec. 503. Grant authority.
- Sec. 504. Authorization of appropriations.

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.).

TITLE I—GENERAL PROVISIONS

SEC. 101. HEADINGS AND SHORT TITLE.

(a) **TITLE.**—The heading of title I of the Act is amended to read as follows:

"TITLE I—PROGRAMS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES"

(b) **PART.**—The heading of part A of title I of the Act is amended to read as follows:

"PART A—GENERAL PROVISIONS"

(c) **SHORT TITLE.**—Section 100 (42 U.S.C. 6000 note) is amended—

- (1) by striking "SEC. 100"; and
- (2) in the section heading, by striking "SHORT TITLE" and inserting the following new section heading:

"SEC. 100. SHORT TITLE."

SEC. 102. FINDINGS AND PURPOSES.

Section 101 (42 U.S.C. 6000) is amended to read as follows:

"SEC. 101. FINDINGS, PURPOSES, AND POLICY.

"(a) **FINDINGS.**—The Congress finds that—

"(1) in 1993 there are more than 3,000,000 individuals with developmental disabilities in the United States;

"(2) disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to enjoy the opportunity to live independently, enjoy self-determination, make choices, contribute to society, and experience full integration and inclusion in the economic, political, social, cultural, and educational mainstream of American society;

"(3) individuals with developmental disabilities continually encounter various forms of discrimination in critical areas;

"(4) there is a lack of public awareness of the capabilities and competencies of individuals with developmental disabilities;

"(5) individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely;

"(6) individuals with developmental disabilities often require lifelong specialized services and assistance, provided in a coordinated and culturally competent manner by many agencies, professionals, advocates, community representatives, and others to eliminate barriers and to meet the needs of such individuals and their families;

"(7) a substantial portion of individuals with developmental disabilities and their families do not have access to appropriate support and services from generic and specialized service systems and remain underserved or underserved;

"(8) family members, friends, and members of the community can play an important role in enhancing the lives of individuals with developmental disabilities, especially when the family and community are provided with the necessary services and supports;

"(9) there is a need to ensure that services, supports, and other assistance are provided in a culturally competent manner, that individuals from racial and ethnic minority backgrounds are fully included in all activities under this Act, and that greater efforts are made to recruit individuals from minority backgrounds into the field of developmental disabilities; and

"(10) the goals of the Nation properly include the goal of providing individuals with developmental disabilities with the opportunities and support to—

"(A) make informed choices and decisions;

"(B) live in homes and communities in which such individuals can exercise their full rights and responsibilities as citizens;

"(C) pursue meaningful and productive lives;

"(D) contribute to their family, community, State, and Nation;

"(E) have interdependent friendships and relationships with others; and

"(F) achieve full integration and inclusion in society, in an individualized manner, consistent with unique strengths, resources, priorities, concerns, abilities, and capabilities of each individual.

"(b) **PURPOSE.**—The purpose of this Act is to assure that individuals with developmental disabilities and their families participate in the design of and have access to culturally competent services, supports, and other assistance and opportunities that promote independence, productivity, and integration and inclusion into the community, through—

"(1) support to State Developmental Disabilities Councils in each State to promote, through systemic change, capacity building, and advocacy activities that are consistent with the policy under subsection (c)(2), a consumer- and family-centered, comprehensive system; and a coordinated array of services, supports, and other assistance for individuals with developmental disabilities and their families;

"(2) support to protection and advocacy systems in each State to protect the legal and human rights of individuals with developmental disabilities;

"(3) support to university affiliated programs to provide interdisciplinary, preservice preparation of students and fellows, community service activities, and the dissemination of information and research findings; and

"(4) support to national initiatives to collect necessary data, provide technical assistance to State Developmental Disabilities Councils, protection and advocacy systems and university affiliated programs, and support other nationally significant activities.

"(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 that—

"(1) individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of achieving independence, productivity, and integration and inclusion into the community, and often require the provision of services, supports and other as-

assistance to achieve independence, productivity, and integration and inclusion;

"(2) individuals with developmental disabilities and their families have competencies, capabilities and personal goals that should be recognized, supported, and encouraged, and any assistance to such individuals should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the such individuals;

"(3) individuals with developmental disabilities and their families are the primary decisionmakers regarding the services and supports such individuals and their families receive and play decisionmaking roles in policies and programs that affect the lives of such individuals and their families;

"(4) services, supports, and other assistance are provided in a manner that demonstrates respect for individual dignity, personal preferences, and cultural differences;

"(5) specific efforts must be made to ensure that individuals from racial and ethnic minority backgrounds enjoy effective and meaningful opportunities for full participation in the developmental disabilities service system;

"(6) recruitment efforts within developmental disabilities at the level of preservice training, community training, practice, administration and policymaking must focus on bringing larger numbers of racial and ethnic minorities into the field in order to provide appropriate skills, knowledge, role models, and sufficient manpower to address the growing needs of an increasingly diverse population;

"(7) with education and support, communities can be responsive to the needs of individuals with developmental disabilities and their families and are enriched by the full and active participation and the contributions by individuals with developmental disabilities and their families; and

"(8) individuals with developmental disabilities should have access to opportunities and the necessary support to be included in community life, have interdependent relationships, live in homes and communities, and make contributions to their families, community, State, and Nation."

SEC. 103. DEFINITIONS.

Section 102 (42 U.S.C. 6001) is amended to read as follows:

"SEC. 102. DEFINITIONS.

"For purposes of this title:

"(1) **AMERICAN INDIAN CONSORTIUM.**—The term 'American Indian Consortium' means any confederation of two or more recognized American Indian tribes, created through the official action of each participating tribe, that has a combined total resident population of 150,000 enrolled tribal members and a contiguous territory of Indian lands in two or more States.

"(2) **ASSISTIVE TECHNOLOGY DEVICE.**—The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of individuals with developmental disabilities.

"(3) **ASSISTIVE TECHNOLOGY SERVICE.**—The term 'assistive technology service' means any service that directly assists an individual with a developmental disability in the selection, acquisition, or use, of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of an individual with a developmental disability, including a functional evaluation of the individual in the individual's customary environment;

"(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by an individual with a developmental disability;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for an individual with a developmental disability, or, where appropriate, a family member, guardian, advocate, or authorized representative of an individual with a developmental disability; and

"(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of, an individual with developmental disabilities.

"(4) **CHILD DEVELOPMENT ACTIVITIES.**—The term 'child development activities' means such priority area activities as will assist in the prevention, identification, and alleviation of developmental disabilities in children, including early intervention services.

"(5) **COMMUNITY LIVING ACTIVITIES.**—The term 'community living activities' means such priority area activities as will assist individuals with developmental disabilities to obtain and receive the supports needed to live in their family home or a home of their own with individuals of their choice and to develop supports in the community.

"(6) **COMMUNITY SUPPORTS.**—The term 'community supports' means activities, services, supports, and other assistance designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of individuals with developmental disabilities and their families;

"(B) develop local networks that can provide informal support; and

"(C) make communities accessible and enable communities to offer their resources and opportunities to individuals with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(7) **CULTURALLY COMPETENT.**—The term 'culturally competent' means services, supports or other assistance that are conducted or provided in a manner that is responsive to the beliefs, interpersonal styles, attitudes, language and behaviors of individuals who are receiving services, and in a manner that has the greatest likelihood of ensuring their maximum participation in the program.

"(8) **DEVELOPMENTAL DISABILITY.**—The term 'developmental disability' means a severe, chronic disability of an individual 5 years of age or older that—

"(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

"(B) is manifested before the individual attains age 22;

"(C) is likely to continue indefinitely;

"(D) results in substantial functional limitations in three or more of the following areas of major life activity—

"(i) self-care;

"(ii) receptive and expressive language;

"(iii) learning;

"(iv) mobility;

"(v) self-direction;

"(vi) capacity for independent living; and

"(vii) economic self-sufficiency; and

"(E) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, supports, or other assistance that is of lifelong or extended duration and is individually planned and coordinated, except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.

"(9) **EARLY INTERVENTION SERVICES.**—The term 'early intervention services' means services provided to infants, toddlers, young children, and their families to—

"(A) enhance the development of infants, toddlers, and young children with disabilities and to minimize their potential for developmental delay; and

"(B) enhance the capacity of families to meet the special needs of their infants, toddlers, and young children.

"(10) **EMPLOYMENT ACTIVITIES.**—The term 'employment activities' means such priority area activities as will increase the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities in work settings.

"(11) **FAMILY SUPPORT SERVICE.**—The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities that are designed to—

"(A) strengthen the family's role as primary caregiver;

"(B) prevent inappropriate out-of-the-home placement and maintain family unity; and

"(C) reunite families with members who have been placed out of the home, whenever possible. Such term includes respite care, rehabilitation technology, personal assistance services, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of individuals with developmental disabilities.

"(12) **FEDERAL PRIORITY AREAS.**—The term 'Federal priority areas' means community living activities, employment activities, child development activities, and system coordination and community education activities.

"(13) **INDEPENDENCE.**—The term 'independence' means the extent to which individuals with developmental disabilities exert control and choice over their own lives.

"(14) **INDIVIDUAL SUPPORTS.**—The term 'individual supports' means services, supports, and other assistance that enable an individual with a developmental disability to be independent, productive, integrated, and included into such individual's community, and that are designed to—

"(A) enable such individual to control such individual's environment, permitting the most independent life possible;

"(B) prevent placement into a more restrictive living arrangement than is necessary; and

"(C) enable such individual to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, rehabilitation technology, vehicular and home modifications, support at work, and transportation.

"(15) **INTEGRATION AND INCLUSION.**—The term 'integration and inclusion', with respect to individuals with developmental disabilities, means—

"(A) the use by individuals with developmental disabilities of the same community resources that are used by and available to other citizens;

"(B) living in homes close to community resources, with regular contact with citizens without disabilities in their communities;

"(C) the full and active participation by individuals with developmental disabilities in the same community activities and types of employment as citizens without disabilities, and utilization of the same community resources as citizens without disabilities, living, learning, working, and enjoying life in regular contact with citizens without disabilities; and

"(D) having friendships and relationships with individuals and families of their own choosing.

"(15) **NONPROFIT.**—The term 'nonprofit' means an agency, institution, or organization that is owned or operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(17) OTHER ORGANIZATIONS.—The term 'other organizations' means those organizations that are not State agencies or nonprofit agencies, except such organizations may be consulting firms, independent proprietary businesses and providers, and local community groups not organizationally incorporated, and that are interested in supporting individuals with developmental disabilities.

"(18) PERSONAL ASSISTANCE SERVICES.—The term 'personal assistance services' means a range of services, provided by one or more individuals, designed to assist an individual with a disability to perform daily living activities on or off a job that such individual would typically perform if such individual did not have a disability. Such services shall be designed to increase such individual's control in life and ability to perform everyday activities on or off such job.

"(19) PREVENTION.—The term 'prevention' means activities that address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities that—

"(A) eliminate or reduce the factors that cause or predispose individuals to developmental disabilities or that increase the prevalence of developmental disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) mitigate against the effects of developmental disabilities throughout the individual's lifespan.

"(20) PRODUCTIVITY.—The term 'productivity' means—

"(A) engagement in income-producing work that is measured by increased income, improved employment status, or job advancement; or

"(B) engagement in work that contributes to a household or community.

"(21) PROTECTION AND ADVOCACY SYSTEM.—The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142.

"(22) 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 developmental disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. Such term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

"(23) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(24) SERVICE COORDINATION ACTIVITIES.—The term 'service coordination activities' (also referred to as 'case management activities') means activities that assist and enable individuals with developmental disabilities and their families to access services, supports and other assistance, and includes—

"(A) the provision of information to individuals with developmental disabilities and their families about the availability of services, supports, and other assistance;

"(B) assistance in obtaining appropriate services, supports, and other assistance, which may include facilitating and organizing such assistance;

"(C) coordination and monitoring of services, supports, and other assistance provided singly or in combination to individuals with developmental disabilities and their families to ensure accessibility, continuity, and accountability of such assistance; and

"(D) follow-along services that ensure, through a continuing relationship, that the changing needs of individuals with developmental disabilities and their families are recognized and appropriately met.

"(25) STATE.—The term 'State', except as provided in section 155, 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, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect).

"(26) STATE DEVELOPMENTAL DISABILITIES COUNCIL.—The term 'State Developmental Disabilities Council' means a Council established under section 124.

"(27) STATE PRIORITY AREA.—The term 'State priority area' means priority area activities in an area considered essential by the State Developmental Disabilities Council.

"(28) SUPPORTED EMPLOYMENT.—The term 'supported employment' means competitive work in integrated work settings for individuals with developmental disabilities—

"(A)(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 severe disability; and

"(B) who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work.

"(29) SYSTEM COORDINATION AND COMMUNITY EDUCATION ACTIVITIES.—The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance;

"(B) enhance systems design, redesign, and integration, including the encouragement of the creation of local service coordination and information and referral statewide systems;

"(C) enhance individual, family, and citizen participation and involvement; and

"(D) develop and support coalitions and individuals through training in self-advocacy, educating policymakers, and citizen leadership skills.

"(30) UNIVERSITY AFFILIATED PROGRAM.—The term 'university affiliated program' means a university affiliated program established under section 152.

"(31) UNSERVED AND UNDERSERVED.—The term 'unserved and underserved' includes populations such as individuals from racial and ethnic minority backgrounds, disadvantaged individuals, individuals with limited-English proficiency, individuals from underserved geographic areas (rural or urban), and specific groups of individuals within the population of individuals with developmental disabilities, including individuals with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments."

SEC. 104. FEDERAL SHARE.

Section 103 (42 U.S.C. 6002) is repealed.

SEC. 105. RECORDS AND AUDITS.

(a) SECTION HEADING.—Section 104 (42 U.S.C. 6003) is amended—

(1) by striking "SEC. 104."; and

(2) in the section heading, by striking "RECORDS AND AUDIT" and inserting the following new section heading:

"SEC. 104. RECORDS AND AUDITS."

(b) RECORDS AND AUDITS.—Section 104 (42 U.S.C. 6003) is amended—

(1) in subsection (a)—

(A) by striking "Each" and inserting "RECORDS.—Each";

(B) by striking "including" and inserting "including—";

(C) by realigning the margins of subparagraphs (A), (B), and (C) of paragraph (1) so as to align with the margins of subparagraphs (A) and (B) of paragraph (28) of section 102;

(D) by realigning the margins of paragraphs (1) and (2) so as to align with the margin of paragraph (30) of section 102;

(E) in paragraph (1), by striking "disclose" and inserting "disclose—"; and

(F) by striking the comma each place such appears and inserting a semicolon; and

(2) in subsection (b), by striking "The Secretary" and inserting "ACCESS.—The Secretary".

SEC. 106. RECOVERY.

Section 105 (42 U.S.C. 6004) is repealed.

SEC. 107. STATE CONTROL OF OPERATIONS.

Section 106 (42 U.S.C. 6005) is amended—

(1) by striking "SEC. 106."; and

(2) in the section heading, by striking "STATE CONTROL OF OPERATIONS" and inserting the following new section heading:

"SEC. 106. STATE CONTROL OF OPERATIONS.;"

and

(3) by striking "facility for persons" and inserting "programs, services, and supports for individuals".

SEC. 108. REPORTS.

(a) SECTION HEADING.—Section 107 (42 U.S.C. 6006) is amended—

(1) by striking "SEC. 107."; and

(2) in the section heading, by striking "REPORTS" and inserting the following new section heading:

"SEC. 107. REPORTS."

(b) REPORTS.—Section 107 (42 U.S.C. 6006) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "By January" and inserting "DEVELOPMENTAL DISABILITIES COUNCIL REPORTS.—By January";

(ii) by striking "the State Planning Council of each State" and inserting "each State Developmental Disabilities Council";

(iii) by striking "a report concerning" and inserting "a report of"; and

(iv) by striking "such report" and inserting "report";

(B) in paragraph (1), by striking "of such activities" and all that follows through "from such activities" and inserting "of activities and accomplishments";

(C) in paragraph (2)—

(i) by striking "such accomplishments" and inserting "accomplishments"; and

(ii) by striking "by the State";

(D) in paragraph (4)—

(i) by striking "Planning" and inserting "Developmental Disabilities";

(ii) by striking "each" each place such term appears;

(iii) by striking "report" and inserting "reports";

(iv) by striking "1902(a)(31)(C)" and inserting "1902(a)(31)";

(v) by striking "plan" and inserting "plans"; and

(vi) by striking "; and" and inserting a semicolon.

(E) by striking paragraph (5); and

(F) by adding at the end the following new paragraphs:

"(5) a description of—

"(A) the trends and progress made in the State concerning systemic change (including policy reform), capacity building, advocacy, and other actions on behalf of individuals with developmental disabilities, with attention to individuals who are traditionally unserved and underserved, particularly individuals who are members of ethnic and racial minority groups, and individuals from underserved geographic areas;

"(B) systemic change, capacity building, and advocacy activities that affect individuals with disabilities other than developmental disabilities; and

"(C) a summary of actions taken to improve access and services for unserved and underserved groups;

"(6) a description of resources leveraged by activities directly attributable to State Developmental Disabilities Council actions; and

"(7) a description of the method by which the State Developmental Disabilities Council shall

widely disseminate the annual report to affected constituencies as well as the general public and to assure that the report is available in accessible formats."

(2) in subsection (b)—
(A) by striking "By January" and inserting "PROTECTION AND ADVOCACY SYSTEM REPORTS.—By January"; and

(B) by inserting before the period ", including a description of the system's priorities for such fiscal year, the process used to obtain public input, the nature of such input, and how such input was used"; and

(3) in subsection (c)—
(A) by realigning the margins of subparagraphs (A) and (B) of paragraph (1) so as to align with the margins of subparagraph (C) of such paragraph;

(B) by realigning the margins of paragraphs (1) and (2) so as to align with the margin of paragraph (1) of subsection (a);

(C) by striking the subsection designation and inserting "(c) SECRETARY REPORTS.—";

(D) by striking "(1) By" and inserting the following:

"(1) IN GENERAL.—By";

(E) in paragraph (1)—
(i) in subparagraph (B)—

(I) by striking "integration" each place such term appears and inserting "integration and inclusion"; and
(II) by striking "persons" and inserting "individuals";

(ii) by striking subparagraph (C) and inserting the following new subparagraph:

"(C)(i) the trends and progress made in the States concerning systemic change (including policy reform), capacity building, advocacy, and other actions on behalf of individuals with developmental disabilities, with attention to individuals who are traditionally unserved and underserved, particularly individuals who are members of ethnic and racial minority groups, and individuals from underserved geographic areas;

(ii) systemic change, capacity building, and advocacy activities that affect individuals with disabilities other than developmental disabilities; and

(iii) a summary of actions taken to improve access and services for unserved and underserved groups;"; and

(iii) in subparagraph (D), by striking "persons" and inserting "individuals"; and

(F) in paragraph (2)—
(i) by striking "use and include" and inserting "include and analyze";

(ii) by striking "to the Secretary"; and
(iii) by striking "In preparing" and inserting

"INCLUSION OF COUNCIL AND SYSTEM INFORMATION.—In preparing".

SEC. 109. RESPONSIBILITIES OF THE SECRETARY.

(a) SECTION HEADING.—Section 108 (42 U.S.C. 6007) is amended—

(1) by striking "SEC. 108."; and
(2) in the section heading, by striking "RESPONSIBILITIES OF THE SECRETARY" and inserting the following new section heading:

SEC. 102. RESPONSIBILITIES OF THE SECRETARY.

(b) RESPONSIBILITIES.—Section 108 (42 U.S.C. 6007) is amended—

(1) in subsection (a), by striking "The Secretary" and inserting "REGULATIONS.—The Secretary"; and

(2) in subsection (b)—
(A) by striking "Within ninety" and inserting "INTERAGENCY COMMITTEE.—Within 90"; and

(B) by striking "Administration for Developmental Disabilities" and inserting "Administration on Developmental Disabilities".

SEC. 110. EMPLOYMENT OF HANDICAPPED INDIVIDUALS.

(a) SECTION HEADING.—Section 109 (42 U.S.C. 6008) is amended—

(1) by striking "SEC. 109."; and
(2) in the section heading, by striking "EMPLOYMENT OF HANDICAPPED INDIVIDUALS" and inserting the following new section heading:

"SEC. 109. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES."

(b) EMPLOYMENT.—Section 109 (42 U.S.C. 6008) is amended—

(1) by striking "handicapped individuals" and inserting "individuals with disabilities";

(2) by striking "Act of" and inserting "Act of 1973"; and

(3) by striking "which govern" and all that follows through "subcontracts." and inserting the following: "that govern employment—

"(1) by State rehabilitation agencies and community rehabilitation programs; and

"(2) under Federal contracts and subcontracts.".

SEC. 111. RIGHTS OF THE DEVELOPMENTALLY DISABLED.

(a) SECTION HEADING.—Section 110 (42 U.S.C. 6009) is amended—

(1) by striking "SEC. 110."; and
(2) in the section heading, by striking "RIGHTS OF THE DEVELOPMENTALLY DISABLED" and inserting the following new section heading:

"SEC. 110. RIGHTS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES."

(b) RIGHTS.—Section 110 (42 U.S.C. 6009) is amended—

(1) in the matter preceding paragraph (1) by striking "persons" and inserting "individuals";

(2) in paragraph (1), by striking "Persons" and inserting "Individuals";

(3) in paragraph (2)—
(A) by striking "a person" and inserting "an individual";

(B) by striking "the person" and inserting "the individual"; and

(C) by striking "the person's" and inserting "the individual's";

(4) in paragraph (3), by striking "persons" each place such term appears and inserting "individuals";

(5) in paragraph (4), by striking "persons" each place such term appears and inserting "individuals"; and

(6) in the matter following subparagraph (C) of paragraph (4), by striking "persons" each place such term appears and inserting "individuals".

TITLE II—FEDERAL ASSISTANCE FOR PRIORITY AREA ACTIVITIES FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

SEC. 201. PART HEADING.

The heading of Part B of title I of the Act is amended to read as follows:

"PART B—FEDERAL ASSISTANCE TO STATE DEVELOPMENTAL DISABILITIES COUNCILS"

SEC. 202. PURPOSE.

Section 121 (42 U.S.C. 6021) is amended to read as follows:

"SEC. 121. PURPOSE.

"The purpose of this part is to provide for allotments to support State Developmental Disabilities Councils in each State to promote, through systemic change, capacity building, and advocacy activities that are consistent with the policy under section 101(c)(2), the development of a consumer and family-centered, comprehensive system and a coordinated array of culturally competent services, supports, and other assistance designed to achieve independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities."

SEC. 203. STATE PLANS.

Section 122 (42 U.S.C. 6022) is amended to read as follows:

"SEC. 122. STATE PLAN.

"(a) IN GENERAL.—Any State desiring to take advantage of this part shall have a State plan submitted to, and approved by, the Secretary under this section.

"(b) PLANNING CYCLE.—The plan under subsection (a) shall be reviewed annually and revised at least once every 3 years.

"(c) STATE PLAN REQUIREMENTS.—In order to be approved by the Secretary under this section, a State plan shall meet the requirements in paragraphs (1) through (5).

"(1) STATE COUNCIL.—The plan shall provide for the establishment and maintenance of a State Developmental Disabilities Council in accordance with section 124 and describe the membership of such Council.

"(2) DESIGNATED STATE AGENCY.—The plan shall identify the agency or office within the State designated to support the State Developmental Disabilities Council in accordance with this section and section 124(d).

"(3) COMPREHENSIVE REVIEW AND ANALYSIS.—The plan shall contain a comprehensive review and analysis of the extent to which services and supports are available to, and the need for services and supports for, individuals with developmental disabilities and their families. Such review and analysis shall include—

"(A) a description of the services, supports and other assistance being provided to, or to be provided to, individuals with developmental disabilities and their families under other federally assisted State programs, plans, and policies that the State conducts and in which individuals with developmental disabilities are or may be eligible to participate, including programs relating to education, job training, vocational rehabilitation, public assistance, medical assistance, social services, child welfare, maternal and child health, aging, programs for children with special health care needs, children's mental health, housing, transportation, technology, comprehensive health and mental health, and such other programs as the Secretary may specify;

"(B) a description of the extent to which agencies operating such other federally assisted State programs pursue interagency initiatives to improve and enhance services, supports, and other assistance for individuals with developmental disabilities; and

"(C) an examination of the provision, and the need for the provision, in the State of the four Federal priority areas and an optional State priority area, including—

"(i) an analysis of such Federal and State priority areas in relation to the degree of support for individuals with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical and mental impairments;

"(ii) an analysis of criteria for eligibility for services, including specialized services and special adaptation of generic services provided by agencies within the State, that may exclude individuals with developmental disabilities from receiving such services;

"(iii) an analysis of the barriers that impede full participation of members of unserved and underserved groups;

"(iv) consideration of the report conducted pursuant to section 124(e);

"(v) consideration of the data collected by the State educational agency under section 618 of the Individuals with Disabilities Education Act;

"(vi) an analysis of services, assistive technology, or knowledge that may be unavailable to assist individuals with developmental disabilities;

"(vii) an analysis of existing and projected fiscal resources;

"(viii) an analysis of any other issues identified by the State Developmental Disabilities Council; and

"(ix) the formulation of objectives in systemic change, capacity building, and advocacy to address the issues described in clauses (i) through (vi) for all subpopulations of individuals with developmental disabilities that may be identified by the State Developmental Disabilities Council.

"(4) PLAN OBJECTIVES.—The plan shall—

"(A) specify employment, and at the discretion of the State, any or all of the three other Federal priority areas and an optional State priority area that are selected by the State Developmental Disabilities Council for such Council's

major systemic change, capacity building, and advocacy activities to be addressed during the plan period and describe the extent and scope of the Federal and State priority areas that will be addressed under the plan in the fiscal year;

"(B) describe the specific 1-year and 3-year objectives to be achieved and include a listing of the programs, activities, and resources by which the State Developmental Disabilities Council will implement its systemic change, capacity building, and advocacy activities in selected priority areas, and set forth the non-Federal share required to carry out each objective; and

"(C) establish a method for the periodic evaluation of the plan's effectiveness in meeting the objectives described in subparagraph (B).

"(5) ASSURANCES.—The plan shall contain or be supported by the assurances described in subparagraphs (A) through (N), which are satisfactory to the Secretary.

"(A) USE OF FUNDS.—With respect to the funds paid to the State under section 125, the plan shall provide assurances that—

"(i) such funds will be used to make a significant contribution toward enhancing the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities in various political subdivisions of the State;

"(ii) such funds will be used to supplement and to increase the level of funds that would otherwise be made available for the purposes for which Federal funds are provided and not to supplant non-Federal funds;

"(iii) such funds will be used to complement and augment rather than duplicate or replace services for individuals with developmental disabilities and their families who are eligible for Federal assistance under other State programs;

"(iv) part of such funds will be made available by the State to public or private entities;

"(v) not more than 25 percent of such funds will be allocated to the agency designated under section 124(d) for service demonstration by such agency and that such funds and demonstration services have been explicitly authorized by the State Developmental Disabilities Council;

"(vi) not less than 65 percent of the amount available to the State under section 125 shall be expended for activities in the Federal priority area of employment activities, and, at the discretion of the State, activities in any or all of the three other Federal priority areas and an optional State priority area; and

"(vii) the remainder of the amount available to the State from allotments under section 125 (after making expenditures required by clause (vi)) shall be used for the planning, coordination, administration, and implementation of priority area activities, and other activities relating to systemic change, capacity building, and advocacy to implement the responsibilities of the State Developmental Disabilities Council pursuant to section 124(c).

"(B) STATE FINANCIAL PARTICIPATION.—The plan shall provide assurances that there will be reasonable State financial participation in the cost of carrying out the State plan.

"(C) CONFLICT OF INTEREST.—The plan shall provide assurances that the State Developmental Disabilities Council has approved conflict of interest policies as of October 1, 1994, to ensure that no member of such 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.

"(D) URBAN AND RURAL POVERTY AREAS.—The plan shall provide assurances that special financial and technical assistance shall be given to organizations that provide services, supports, and other assistance to individuals with developmental disabilities who live in areas designated as urban or rural poverty areas.

"(E) PROGRAM STANDARDS.—The plan shall provide assurances that programs, projects, and activities assisted under the plan, and the buildings in which such programs, projects, and activities are operated, will meet standards pre-

scribed by the Secretary in regulation and all applicable Federal and State accessibility standards.

"(F) INDIVIDUALIZED SERVICES.—The plan shall provide assurances that any direct services provided to individuals with developmental disabilities and funded under this plan will be provided in an individualized manner, consistent with unique strengths, resources, priorities, concerns, abilities, and capabilities of an individual.

"(G) HUMAN RIGHTS.—The plan shall provide assurances that the human rights of all individuals with developmental disabilities (especially those individuals without familial protection) who are receiving services under programs assisted under this part will be protected consistent with section 110 (relating to rights of individuals with developmental disabilities).

"(H) MINORITY PARTICIPATION.—The plan shall provide assurances that the State has taken affirmative steps to assure that participation in programs under this part is geographically representative of the State, and reflects the diversity of the State with respect to race and ethnicity.

"(I) INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED SURVEY REPORTS.—The plan shall provide assurances that the State will provide the State Developmental Disabilities Council with a copy of each annual survey report and plan of corrections for cited deficiencies prepared pursuant to section 1902(a)(31) of the Social Security Act with respect to any intermediate care facility for the mentally retarded in such State not less than 30 days after the completion of each such report or plan.

"(J) VOLUNTEERS.—The plan shall provide assurances that the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Service Act of 1973 and other appropriate voluntary organizations will be provided for, except that such volunteer services shall supplement, and shall not be in lieu of, services of paid employees.

"(K) EMPLOYEE PROTECTIONS.—The plan shall provide assurances that fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) will be provided to protect the interests of employees affected by actions under the plan to provide community living activities, including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees.

"(L) STAFF ASSIGNMENTS.—The plan shall provide assurances that the staff and other personnel of the State Developmental Disabilities Council, while working for the Council, are responsible solely for assisting the Council in carrying out its duties under this part and are not assigned duties by the designated State agency or any other agency or office of the State.

"(M) NONINTERFERENCE.—The plan shall provide assurances that the designated State agency or other office of the State will not interfere with systemic change, capacity building, and advocacy activities, budget, personnel, State plan development, or plan implementation of the State Developmental Disabilities Council, except that the designated State agency shall have the authority necessary to carry out the responsibilities described in section 124(d)(3).

"(N) OTHER ASSURANCES.—The plan shall contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this part.

"(d) PUBLIC REVIEW, SUBMISSION, AND APPROVAL.—

"(1) PUBLIC REVIEW.—The plan shall be made available for public review and comment with appropriate and sufficient notice in accessible formats and take into account and respond to

significant suggestions, as prescribed by the Secretary in regulation.

"(2) CONSULTATION WITH THE DESIGNATED STATE AGENCY.—Before the plan is submitted to the Secretary, the State Developmental Disabilities Council shall consult with the designated State agency to ensure that the State plan is consistent with State law and to obtain appropriate State plan assurances.

"(3) PLAN APPROVAL.—The Secretary shall approve any State plan and annual updates of such plan that comply with the provisions of subsections (a), (b), and (c). The Secretary may not finally disapprove a State plan except after providing reasonable notice and an opportunity for a hearing to the State."

SEC. 204. HABILITATION PLANS.

Section 123 (42 U.S.C. 6023) is repealed.

SEC. 205. COUNCILS.

Section 124 (42 U.S.C. 6024) is amended to read as follows:

"SEC. 124. STATE DEVELOPMENTAL DISABILITIES COUNCILS AND DESIGNATED STATE AGENCIES.

"(a) IN GENERAL.—Each State that receives assistance under this part shall establish and maintain a State Developmental Disabilities Council (hereafter in this section referred to as the 'Council') to promote, through systemic change, capacity building, and advocacy activities (consistent with section 101(c)(2)), the development of a consumer and family-centered comprehensive system and a coordinated array of culturally competent services, supports and other assistance designed to achieve independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities. The Council shall have the authority to fulfill its responsibilities described in subsection (c).

"(b) COUNCIL MEMBERSHIP.—

"(1) COUNCIL APPOINTMENTS.—The members of the Council of a State shall be appointed by the Governor of the State from among the residents of that State. The Governor shall select members of the Council, at his or her discretion, after soliciting recommendations from organizations representing a broad range of individuals with developmental disabilities and individuals interested in individuals with developmental disabilities, including the non-State agency members of the Council. The Council may, at the request of the Governor, coordinate Council and public input to the Governor regarding all recommendations. To the extent feasible, the membership of the Council shall be geographically representative of the State and reflect the diversity of the State with respect to race and ethnicity.

"(2) MEMBERSHIP ROTATION.—The Governor shall make appropriate provisions to rotate the membership of the Council. Such provisions shall allow members to continue to serve on the Council until such members' successors are appointed. The Council shall notify the Governor regarding membership requirements, when vacancies remain unfilled for a significant period of time.

"(3) REPRESENTATION OF AGENCIES AND ORGANIZATIONS.—Each Council shall at all times include representatives of the principal State agencies (including the State agencies that administer funds provided under the Rehabilitation Act of 1973, the Individuals with Disabilities Education Act, the Older Americans Act, and title XIX of the Social Security Act), institutions of higher education, each university affiliated program in the State established under part D, the State protection and advocacy system established under part C, and local agencies, nongovernmental agencies, and private nonprofit groups concerned with services for individuals with developmental disabilities in the State in which such agencies and groups are located. Such representatives shall—

"(A) have sufficient authority to engage in policy planning and implementation on behalf

of the department, agency, or program such representatives represent; and

"(B) recuse themselves from any discussion of grants or contracts for which such representatives' departments, agencies, or programs are grantees or applicants and comply with the conflict of interest policies required under section 122(c)(5)(C).

"(4) REPRESENTATION OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.—Not less than 50 percent of the membership of each Council shall consist of individuals who are—

"(A)(i) individuals with developmental disabilities;

"(ii) parents or guardians of children with developmental disabilities; or

"(iii) immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves; and

"(B) not employees of a State agency that receives funds or provides services under this part, and who are not managing employees (as defined in section 1126(b) of the Social Security Act) of any other entity that receives funds or provides services under this part.

"(5) COMPOSITION OF MEMBERSHIP WITH DEVELOPMENTAL DISABILITIES.—Of the members of the Council described in paragraph (4)—

"(A) one-third shall be individuals with developmental disabilities as described in paragraph (4)(A)(i);

"(B) one-third shall be parents of children with developmental disabilities as described in paragraph (4)(A)(ii), and immediate relatives or guardians of adults with mentally impairing developmental disabilities as described in paragraph (4)(A)(iii); and

"(C) one-third shall be a combination of individuals described in paragraph (4)(A).

"(6) INSTITUTIONALIZED INDIVIDUALS.—Of the members of the Council described in paragraph (5), at least one shall be an immediate relative or guardian of an institutionalized or previously institutionalized individual with a developmental disability or an individual with a developmental disability who resides or previously resided in an institution. This paragraph shall not apply with respect to a State if such an individual does not reside in that State.

"(c) COUNCIL RESPONSIBILITIES.—A Council, through Council members, staff, consultants, contractors, or subgrantees, shall have the responsibilities described in paragraphs (1) through (11).

"(1) SYSTEMIC CHANGE, CAPACITY BUILDING, AND ADVOCACY ACTIVITIES.—The Council shall serve as an advocate for individuals with developmental disabilities and conduct programs, projects, and activities that carry out the purpose under section 121.

"(2) EXAMINATION OF PRIORITY AREAS.—Not less than once every 3 years, the Council shall examine the provision of and need for the four Federal priority areas and an optional State priority area to address, on a statewide and comprehensive basis, urgent needs for services, supports, and other assistance for individuals with developmental disabilities and their families, pursuant to section 122.

"(3) STATE PLAN DEVELOPMENT.—The Council shall develop and submit to the Secretary the State plan required under section 122 after consultation with the designated State agency under the State plan. Such consultation shall be solely for the purposes of obtaining State assurances and ensuring consistency of the plan with State law.

"(4) STATE PLAN IMPLEMENTATION.—The Council shall implement the State plan by conducting and supporting the Federal priority area of employment, not less than one of the remaining three Federal priority areas, and an optional State priority area as defined in section 102, through systemic change, capacity building, and advocacy activities such as those described in subparagraphs (A) through (K).

"(A) DEMONSTRATION OF NEW APPROACHES.—The Council may conduct, on a time-limited

basis, the demonstration of new approaches to enhance the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities. This may include making successful demonstrations generally available through sources of funding other than funding under this part, and may also include assisting those conducting such successful demonstration activities to develop strategies for securing funding from other sources.

"(B) OUTREACH.—The Council may conduct activities to reach out to assist and enable individuals with developmental disabilities and their families who otherwise might not come to the attention of the Council to obtain services, supports, and other assistance, including access to special adaptation of generic services or specialized services.

"(C) TRAINING.—The Council may conduct training for individuals with developmental disabilities, their families, and personnel (including professionals, paraprofessionals; students, volunteers, and other community members) to enable such individuals to obtain access to, or to provide, services, supports and other assistance, including special adaptation of generic services or specialized services for individuals with developmental disabilities and their families. To the extent that training activities are provided, such activities shall be designed to promote the empowerment of individuals with developmental disabilities and their families.

"(D) SUPPORTING COMMUNITIES.—The Council may assist neighborhoods and communities to respond positively to individuals with developmental disabilities and their families by encouraging local networks to provide informal and formal supports and enabling communities to offer such individuals and their families access, resources, and opportunities.

"(E) INTERAGENCY COLLABORATION AND COORDINATION.—The Council may promote interagency collaboration and coordination to better serve, support, assist, or advocate for individuals with developmental disabilities and their families.

"(F) COORDINATION WITH RELATED COUNCILS, COMMITTEES, AND PROGRAMS.—The Council may conduct activities to enhance coordination with—

"(i) other councils or committees, authorized by Federal or State law, concerning individuals with disabilities (such as the State Interagency Coordinating Council under part H of the Individuals with Disabilities Education Act, the State Rehabilitation Advisory Council and the Statewide Independent Living Council under the Rehabilitation Act of 1973, the State Mental Health Planning Council under part B of title XIX of the Public Health Service Act and other similar councils or committees);

"(ii) parent training and information centers under part D of the Individuals with Disabilities Education Act and other federally funded projects that assist parents of children with disabilities; and

"(iii) other groups interested in systemic change, capacity building, and advocacy for individuals with disabilities.

"(G) BARRIER ELIMINATION, SYSTEMS DESIGN, AND CITIZEN PARTICIPATION.—The Council may conduct activities to eliminate barriers, enhance systems design and redesign, and enhance citizen participation to address issues identified in the State plan.

"(H) PUBLIC EDUCATION AND COALITION DEVELOPMENT.—The Council may conduct activities to educate the public about the capabilities, preferences, and needs of individuals with developmental disabilities and their families and to develop and support coalitions that support the policy agenda of the Council, including training in self-advocacy, educating policymakers, and citizen leadership skills.

"(I) INFORMING POLICYMAKERS.—The Council may provide information to Federal, State, and local policymakers, including the Congress, the

Federal executive branch, the Governor, State legislature, and State agencies, in order to increase the ability of such policymakers to offer opportunities and to enhance or adapt generic services or provide specialized services to individuals with developmental disabilities and their families by conducting studies and analyses, gathering information, and developing and disseminating model policies and procedures, information, approaches, strategies, findings, conclusions, and recommendations.

"(J) PREVENTION.—The Council may conduct prevention activities as defined in section 102.

"(K) OTHER ACTIVITIES.—The Council may conduct other systemic change, capacity building, and advocacy activities to promote the development of a consumer and family-centered comprehensive system and a coordinated array of culturally competent services, supports and other assistance designed to achieve independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities throughout the State on a comprehensive basis.

"(5) STATE PLAN MONITORING.—Not less than once each year, the Council shall monitor, review, and evaluate the implementation and effectiveness of the State plan in meeting such plan's objectives.

"(6) REVIEW OF DESIGNATED STATE AGENCY.—The Council shall periodically review the designated State agency with respect to the activities carried out under this Act and make any recommendations for change to the Governor.

"(7) REPORTS.—The Council shall submit to the Secretary, through the Governor, periodic reports on its activities as the Secretary may reasonably request, and keep such records and afford such access thereto as the Secretary finds necessary to verify such reports.

"(8) BUDGET.—Each Council shall prepare, approve, and implement a budget using amounts paid to the State under this part to fund and implement all programs, projects, and activities under this part including—

"(A) conducting such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council, reimbursing Council members of the Council for reasonable and necessary expenses for attending Council meetings and performing Council duties (including child care and personal assistance services), paying compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day such member is engaged in performing the duties of the Council, supporting Council member and staff travel to authorized training and technical assistance activities including inservice training and leadership development, and appropriate subcontracting activities;

"(B) hiring and maintaining sufficient numbers and types of staff (qualified by training and experience) and obtaining the services of such professional, consulting, technical, and clerical personnel (qualified by training and experience), consistent with State law, as the Council determines to be necessary to carry out its functions under this part, except that such State shall not apply hiring freezes, reductions in force, prohibitions on staff travel, or other policies, to the extent that such policies would impact staff or functions funded with Federal funds and would prevent the Council from carrying out its functions under this Act; and

"(C) directing the expenditure of funds for grants, contracts, interagency agreements that are binding contracts, and other activities authorized by the approved State plan.

"(9) STAFF HIRING AND SUPERVISION.—A Council shall, consistent with State law, recruit and hire a Director of the Council, should the position of Director become vacant, and supervise and annually evaluate the Director. The Director shall hire, supervise, and annually evaluate the staff of the Council. Council recruitment and hiring of staff shall be consistent with Federal and State nondiscrimination laws. Dismiss-

sal of personnel shall be consistent with State law and personnel policies.

"(10) **STAFF ASSIGNMENTS.**—The staff and other personnel, while working for the Council, shall be responsible solely for assisting the Council in carrying out its duties under this part and shall not be assigned duties by the designated State agency or any other agency or office of the State.

"(11) **CONSTRUCTION.**—

"(A) **ACTIVITIES OF THE COUNCIL.**—Nothing in this part shall be construed to preclude a Council from engaging in systemic change, capacity building, and advocacy activities for individuals with disabilities other than developmental disabilities, where appropriate.

"(B) **AUTHORITY OF THE COUNCIL.**—Nothing in this Act shall be construed to authorize a Council to direct, control, or exercise any policy making authority or administrative authority over any program assisted under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) and the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

"(d) **DESIGNATED STATE AGENCY.**—

"(1) **IN GENERAL.**—Each State that receives assistance under this part shall designate the State agency that shall, on behalf of the State, provide support to the Council. After the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994, any designation of a State agency shall be made in accordance with the requirements of this subsection.

"(2) **DESIGNATION.**—

"(A) **TYPE OF AGENCY.**—Except as provided in this subsection, the designated State agency shall be—

"(i) the Council if such Council may be the designated State agency under the laws of the State;

"(ii) a State agency that does not provide or pay for services made available to individuals with developmental disabilities; or

"(iii) a State office, including the immediate office of the Governor of the State or a State planning office.

"(B) **CONDITIONS FOR CONTINUATION OF STATE SERVICE AGENCY DESIGNATION.**—

"(i) **DESIGNATION BEFORE ENACTMENT.**—If a State agency that provides or pays for services for individuals with developmental disabilities was a designated State agency for purposes of this part on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994, and the Governor of the State (or legislature, where appropriate and in accordance with State law) determines prior to June 30, 1994, not to change the designation of such agency, such agency may continue to be a designated State agency for purposes of this part.

"(ii) **CRITERIA FOR CONTINUED DESIGNATION.**—The determination at the discretion of the Governor (or legislature as the case may be) shall be made after the Governor has considered the comments and recommendations of the general public and a majority of the non-State agency members of the Council with respect to the designation of such State agency, and after the Governor (or legislature as the case may be) has made an independent assessment that the designation of such agency shall not interfere with the budget, personnel, priorities, or other action of the Council, and the ability of the Council to serve as an advocate for individuals with developmental disabilities.

"(C) **REVIEW OF DESIGNATION.**—After April 1, 1994, the Council may request a review of the designation of the designated State agency by the Governor (or legislature as the case may be). The Council shall provide documentation concerning the reason the Council desires a change to be made and make a recommendation to the Governor (or legislature as the case may be) regarding a preferred designated State agency.

"(D) **APPEAL OF DESIGNATION.**—After the review is completed under subparagraph (C), a

majority of the non-State agency members of the Council may appeal to the Secretary for a review of the designation of the designated State agency if Council independence as an advocate is not assured because of the actions or inactions of the designated State agency.

"(3) **RESPONSIBILITIES.**—The designated State agency shall, on behalf of the State, have the responsibilities described in subparagraphs (A) through (F).

"(A) **SUPPORT SERVICES.**—The designated State agency shall provide required assurances and support services as requested by and negotiated with the Council.

"(B) **FISCAL RESPONSIBILITIES.**—The designated State agency shall—

"(i) receive, account for, and disperse funds under this part based on the State plan required in section 122; and

"(ii) provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, funds paid to the State under this part.

"(C) **RECORDS, ACCESS, AND FINANCIAL REPORTS.**—The designated State agency shall keep such records and afford access thereto as the Secretary and the Council determine necessary. The designated State agency, if other than the Council, shall provide timely financial reports at the request of the Council regarding the status of expenditures, obligations, liquidation, and the Federal and non-Federal share.

"(D) **NON-FEDERAL SHARE.**—The designated State agency, if other than the Council, shall provide the required non-Federal share defined in section 125A(c).

"(E) **ASSURANCES.**—The designated State agency shall assist the Council in obtaining the appropriate State plan assurances and in ensuring that the plan is consistent with State law.

"(F) **MEMORANDUM OF UNDERSTANDING.**—On the request of the Council, the designated State agency shall enter into a memorandum of understanding with the Council delineating the roles and responsibilities of the designated State agency.

"(4) **USE OF FUNDS FOR DESIGNATED STATE AGENCY RESPONSIBILITIES.**—

"(A) **NECESSARY EXPENDITURES OF STATE DESIGNATED AGENCY.**—At the request of any State, a portion of any allotment or allotments of such State under this part for any fiscal year shall be available to pay up to one-half (or the entire amount if the Council is the designated State agency) of the expenditures found necessary by the Secretary for the proper and efficient exercise of the functions of the State designated agency, except that not more than 5 percent of the total of the allotments of such State for any fiscal year, or \$50,000, whichever is less, shall be made available for the total expenditure for such purpose by the State agency designated under this subsection.

"(B) **CONDITION FOR FEDERAL FUNDING.**—Amounts shall be provided under subparagraph (A) to a State for a fiscal year only on condition that there shall be expended from State sources for carrying out the responsibilities of the designated State agency under paragraph (3) not less than the total amount expended for carrying out such responsibilities from such sources during the previous fiscal year, except in such year as the Council may become the designated State agency.

"(C) **SUPPORT SERVICES PROVIDED BY OTHER AGENCIES.**—With the agreement of the designated State agency, the Council may use or contract with agencies other than the designated State agency to perform the functions of the designated State agency.

"(e) **1990 REPORT.**—Not later than January 1, 1990, each Council shall complete the reviews, analyses, and final report described in this section.

"(1) **COMPREHENSIVE REVIEW AND ANALYSIS.**—Each Council shall conduct a comprehensive review and analysis of the eligibility for services provided, and the extent, scope, and effective-

ness of, services provided and functions performed by, all State agencies (including agencies that provide public assistance) that affect or that potentially affect the ability of individuals with developmental disabilities to achieve the goals of independence, productivity, and integration and inclusion into the community, including individuals with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

"(2) **CONSUMER SATISFACTION.**—Each Council shall conduct a review and analysis of the effectiveness of, and consumer satisfaction with, the functions performed by, and services provided or paid for from Federal and State funds by, each of the State agencies (including agencies that provide public assistance) responsible for performing functions for, and providing services to, all individuals with developmental disabilities in the State. Such review and analysis shall be based upon a survey of a representative sample of individuals with developmental disabilities receiving services from each such agency, and if appropriate, shall include such individuals' families.

"(3) **PUBLIC REVIEW AND COMMENT.**—Each Council shall convene public forums, after the provision of notice within the State, in order to—

"(A) present the findings of the reviews and analyses prepared under paragraphs (1) and (2);

"(B) obtain comments from all interested individuals in the State regarding the unserved and underserved populations of individuals with developmental disabilities that result from physical impairment, mental impairment, or a combination of physical and mental impairments; and

"(C) obtain comments on any proposed recommendations concerning the removal of barriers to services for individuals with developmental disabilities and to connect such services to existing State agencies by recommending the designation of one or more State agencies, as appropriate, to be responsible for the provision and coordination of such services.

"(4) **BASIS FOR STATE PLAN.**—Each Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan."

SEC. 206. STATE ALLOTMENTS.

(a) **SECTION HEADING.**—Section 125 (42 U.S.C. 6025) is amended—

(1) by striking "SEC. 125."; and

(2) in the section heading, by striking "STATE ALLOTMENTS" and inserting the following new section heading:

"SEC. 125. STATE ALLOTMENTS."

(b) **ALLOTMENTS.**—Section 125 (42 U.S.C. 6025) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by realigning the margins of subparagraphs (A), (B), and (C) so as to align with the margin of subparagraph (A) of paragraph (4); and

(ii) by realigning the margin of the matter following subparagraph (C) so as to align with the margin of paragraph (3);

(B) by striking "(a)(1) For" and inserting the following:

"(a) **ALLOTMENTS.**—

"(1) **IN GENERAL.**—For";

(C) in paragraph (2)—

(i) by striking "(2) Adjustments" and inserting the following:

"(2) **ADJUSTMENTS.**—Adjustments";

(ii) by striking "may be" and inserting "shall be"; and

(iii) by striking "not less" and inserting "and the percentage of the total appropriation for each State not less";

(D) in paragraph (3)—

(i) by striking "(3)(A) Except" and all that follows through "September 30, 1990." and inserting the following:

"(3) MINIMUM ALLOTMENT FOR APPROPRIATIONS LESS THAN OR EQUAL TO \$75,000,000.—

"(A) IN GENERAL.—Except as provided in paragraph (4), for any fiscal year the allotment under this section—

"(i) to each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Republic of Palau (until the Compact of Free Association with Palau takes effect) may not be less than the greater of—

"(I) \$210,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and

"(ii) to any State not described in clause (i), may not be less than the greater of—

"(I) \$400,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d))."; and

"(i) by striking "(B) Notwithstanding" and inserting the following:

"(B) REDUCTION OF ALLOTMENT.—Notwithstanding";

"(E) in paragraph (4), to read as follows:

"(4) MINIMUM ALLOTMENT FOR APPROPRIATIONS IN EXCESS OF \$75,000,000.—

"(A) IN GENERAL.—In any case in which amounts appropriated under section 130 for a fiscal year exceeds \$75,000,000, the allotment under this section for such fiscal year—

"(i) to each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands or the Republic of Palau (until the Compact of Free Association with Palau takes effect) may not be less than the greater of—

"(I) \$220,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and

"(ii) to any State not described in clause (i) may not be less than the greater of—

"(I) \$450,000; or

"(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)).

"(B) REDUCTION OF ALLOTMENT.—The requirements of paragraph (3)(B) shall apply with respect to amounts to be allotted to States under subparagraph (A), in the same manner and to the same extent as such requirements apply with respect to amounts to be allotted to States under paragraph (3)(A).";

"(F) in paragraph (5)—

(i) by striking "In determining" and inserting "STATE SUPPORTS, SERVICES, AND OTHER ACTIVITIES.—In determining"; and

(ii) by striking, "section 122(b)(2)(C)" and inserting "section 122(c)(3)(A)"; and

(G) in paragraph (6), by striking "In any case" and inserting "INCREASE IN ALLOTMENTS.—In any case";

(2) in subsection (b), by striking "Any amount" and inserting "UNOBLIGATED FUNDS.—Any amount";

(3) by redesignating subsections (c) and (d) as subsection (d) and (e), respectively;

(4) by inserting after subsection (b) the following new subsection:

"(c) OBLIGATION OF FUNDS.—For the purposes of this part, State Interagency Agreements are considered valid obligations for the purpose of obligating Federal funds allotted to the State under this part.";

(5) in subsection (d) (as redesignated by paragraph (3)), by striking "Whenever" and inserting "COOPERATIVE EFFORTS BETWEEN STATES.—Whenever"; and

(6) in subsection (e) (as redesignated by paragraph (3)), by striking "The amount" and inserting "REALLOTMENTS.—The amount".

SEC. 207. FEDERAL SHARE AND NON-FEDERAL SHARE.

Part B of title I of the Act is amended by inserting after section 125 (42 U.S.C. 6025) the following new section:

"SEC. 125A. FEDERAL AND NON-FEDERAL SHARE.

"(a) AGGREGATE COSTS.—The Federal share of all projects in a State supported by an allotment to the State under this part may not exceed 75 percent of the aggregate necessary costs of all such projects as determined by the Secretary, except that—

"(1) in the case of projects whose activities or products target individuals with developmental disabilities who live in urban or rural poverty areas, the Federal share of all such projects may not exceed 90 percent of the aggregate necessary costs of such projects or activities, as determined by the Secretary; and

"(2) in the case of projects or activities undertaken by the Council or Council staff to implement State plan priority activities, the Federal share of all such activities may be up to 100 percent of the aggregate necessary costs of such activities.

"(b) NONDUPLICATION.—In determining the amount of any State's Federal share of the expenditures incurred by such State under a State plan approved under section 122, the Secretary shall not consider—

"(1) any portion of such expenditures that are financed by Federal funds provided under any provision of law other than section 125; and

"(2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds.

"(c) NON-FEDERAL SHARE.—

"(1) IN KIND CONTRIBUTIONS.—The non-Federal share of the cost of any project assisted by a grant or an allotment under this part may be provided in kind.

"(2) CONTRIBUTIONS OF POLITICAL SUBDIVISIONS, PUBLIC, OR PRIVATE ENTITIES.—

"(A) IN GENERAL.—Expenditures on projects or activities by a political subdivision of a State or by a public or private entity shall, subject to such limitations and conditions as the Secretary may by regulation prescribe, be considered to be expenditures by such State in the case of a project under this part.

"(B) STATE CONTRIBUTIONS.—State contributions, including contributions by the designated State agency to provide support services to the Council pursuant to section 124(d)(4), may be counted as part of such State's non-Federal share of allotments under this part.

"(3) VARIATIONS OF THE NON-FEDERAL SHARE.—The non-Federal share required on a grant-by-grant basis may vary.".

SEC. 208. PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION, AND SERVICES.

Section 126 (42 U.S.C. 6026) is amended—

(1) by striking "SEC. 126." and inserting "(a) STATE PLAN EXPENDITURES.—";

(2) in the section heading, by striking "PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION AND SERVICES" and inserting the following new section heading:

"SEC. 126. PAYMENTS TO THE STATES FOR PLANNING, ADMINISTRATION, AND SERVICES.";

and

(3) by adding at the end the following new subsection:

"(b) SUPPORT SERVICES.—Payments to States for support services provided by the designated State agency pursuant to section 124(d)(4) may be made in advance or by way of reimbursement, and in such installments as the Secretary may determine.".

SEC. 209. WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION, AND SERVICES.

Section 127 (42 U.S.C. 6027) is amended—

(1) in the matter preceding paragraph (1), by striking "SEC. 127.";

(2) in the section heading by striking "WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION AND SERVICES" and inserting the following new section heading:

"SEC. 127. WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION, AND SERVICES.";

and

(3) in paragraph (1), by striking "sections" and inserting "section".

SEC. 310. NONDUPLICATION.

Section 128 (42 U.S.C. 6028) is repealed.

SEC. 311. APPEALS BY STATES.

Section 129 (42 U.S.C. 6029) is amended—

(1) by striking "SEC. 129."; and

(2) in the section heading, by striking "APPEALS BY STATES" and inserting the following new section heading:

"SEC. 129. APPEALS BY STATES.".

SEC. 312. AUTHORIZATION OF APPROPRIATIONS.

Section 130 (42 U.S.C. 6030) is amended by striking "\$77,400,000" and all that follows and inserting the following: "\$70,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.".

SEC. 313. REVIEW, ANALYSIS, AND REPORT.

(a) REVIEW AND ANALYSIS.—The Secretary of Health and Human Services shall review and analyze the allotment formula in effect under parts B and C of title I of the Developmental Disabilities Assistance and Bill of Rights Act prior to the date of enactment of this Act, including the factors described in such parts, and the data elements and measures used by the Secretary, to determine whether such formula is consistent with the purpose of the Act.

(b) ALTERNATIVE FORMULAS.—The Secretary of Health and Human Services shall identify alternative formulas for allocating funds, consistent with the purpose of this Act.

(c) REPORT.—Not later than October 1, 1995, the Secretary of Health and Human Services shall submit a report on the review conducted under subsection (a) and a copy of the alternative formulas identified under subsection (b) to the Committee on Labor and Human Resources of the Senate and to the Committee on Energy and Commerce of the House of Representatives.

TITLE III—PROTECTION AND ADVOCACY OF THE RIGHTS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

SEC. 301. PART HEADING.

The heading of part C of title I of the Act is amended to read as follows:

"PART C—PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS".

SEC. 302. PURPOSE.

Section 141 (42 U.S.C. 6041) is amended—

(1) by striking "SEC. 141.";

(2) in the section heading, by striking "PURPOSE" and inserting the following new section heading:

"SEC. 141. PURPOSE.";

(3) by striking "system" and inserting "Protection and Advocacy system (hereafter referred to in this part as the "system")"; and

(4) by striking "persons" and inserting "individuals".

SEC. 303. SYSTEM REQUIRED.

(a) SECTION HEADING.—Section 142 (42 U.S.C. 6042) is amended—

(1) by striking "SEC. 142."; and

(2) in the section heading, by striking "SYSTEM REQUIRED" and inserting the following new section heading:

"SEC. 142. SYSTEM REQUIRED.".

(b) SYSTEM.—Section 142 (42 U.S.C. 6042) is amended—

(1) in subsection (a)—

(A) by striking "In order" and inserting "SYSTEM REQUIRED.—In order";

(B) in paragraph (1), by striking "persons" and inserting "individuals";

(C) in paragraph (2)—
 (i) by striking "persons" each place such term appears and inserting "individuals";
 (ii) in subparagraph (A), by striking "minority" and inserting "ethnic and racial minority";
 (iii) by striking subparagraph (C);
 (iv) in subparagraph (E), by striking "Planning Council" and inserting "Developmental Disabilities Council authorized under part B";
 (v) in subparagraph (F), by striking "and" at the end thereof; and
 (vi) in subparagraph (G)—
 (I) in clause (i), by striking "person" each place such term appears and inserting "individual";
 (II) in the matter preceding subclause (I) of clause (ii), by striking "person" and inserting "individual";
 (III) in clause (ii)(I), by striking "by reason of the mental or physical condition of such person" and inserting "by reason of such individual's mental or physical condition";
 (IV) in clause (ii)(III), by striking "person" and inserting "individual";
 (V) in clause (iii), by realigning the margins of subclauses (I), (II), and (III) so as to align with the margins of subclauses (I), (II), and (III) of clause (ii);
 (VI) in clause (iii), by striking "(iii) any" and inserting the following:
 "(iii) any"; and
 (VII) in clause (iii)(III), by striking "person" and inserting "individual";
 (vii) by redesignating subparagraphs (D), (E), (F), and (G) as subparagraphs (E), (F), (G), and (I), respectively;
 (viii) by inserting after subparagraph (B) the following new subparagraphs:
 "(C) on an annual basis, develop a statement of objectives and priorities for the system's activities; and
 "(D) on an annual basis, provide to the public, including individuals with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical or mental impairments, and their representatives, as appropriate, non-State agency representatives of the State Developmental Disabilities Council, and the university affiliated program (if applicable within a State), an opportunity to comment on—
 "(i) the objectives and priorities established by the system and the rationale for the establishment of such objectives; and
 "(ii) the activities of the system, including the coordination with the advocacy programs under the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, and with other related programs, including the parent training and information centers, education ombudsman programs and assistive technology projects";
 (ix) by inserting after subparagraph (G), as so redesignated in clause (vii), the following new subparagraph:
 "(H) have access at reasonable times and locations to any resident who is an individual with a developmental disability in a facility that is providing services, supports, and other assistance to such a resident";
 (x) by adding at the end the following new subparagraphs:
 "(I) hire and maintain sufficient numbers and types of staff, qualified by training and experience, to carry out such system's function except that such State shall not apply hiring freezes, reductions in force, prohibitions on staff travel, or other policies, to the extent that such policies would impact staff or functions funded with Federal funds and would prevent the system from carrying out its functions under this Act;
 "(K) have the authority to educate policy-makers; and
 "(L) provide assurances to the Secretary that funds allotted to the State under this section will be used to supplement and increase the level of funds that would otherwise be made available

for the purposes for which Federal funds are provided and not to supplant such non-Federal funds";

(D) by striking paragraphs (3) and (5);
 (E) in paragraph (4)—
 (i) by striking "the State" and all that follows through "provided with" and inserting "the State must provide to the system";
 (ii) by striking "1902(a)(31)(B)" and inserting "1902(a)(31)"; and
 (iii) by redesignating such paragraph as paragraph (3); and
 (F) by adding at the end the following new paragraph:
 "(4) the agency implementing the system will not be redesignated unless there is good cause for the redesignation and unless—
 "(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;
 "(B) timely notice and opportunity for public comment in an accessible format has been given to individuals with developmental disabilities or their representatives; and
 "(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause";
 (2) in subsection (b)—
 (A) by striking "(b)(1) To" and inserting the following:
 "(b) ALLOTMENTS.—
 "(1) IN GENERAL.—To";
 (B) in paragraph (1)—
 "(i) in subparagraph (A), to read as follows:
 "(A) the total amount appropriated under section 143 for a fiscal year is at least \$20,000,000—
 "(i) the allotment of each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect) for such fiscal year may not be less than the greater of—
 "(I) \$107,000; or
 "(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and
 "(ii) the allotment of any State not described in clause (i) for such fiscal year may not be less than the greater of—
 "(I) \$200,000; or
 "(II) the greater of the allotments received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d));"; and
 (ii) in subparagraph (B), to read as follows:
 "(B) the total amount appropriated under section 143 for a fiscal year is less than \$20,000,000—
 "(i) the allotment of each of American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect) for such fiscal year may not be less than the greater of—
 "(I) \$80,000; or
 "(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d)); and
 "(ii) the allotment of any State not described in clause (i) for such fiscal year may not be less than the greater of—
 "(I) \$150,000; or
 "(II) the greater of the allotment received by such State for fiscal year 1992, or the allotment received by such State for fiscal year 1993, under this section (determined without regard to subsection (d));";
 (C) by realigning the margins of subparagraphs (A) and (B) of paragraph (2) so as to

align with subparagraphs (A) through (C) of subsection (a)(4);
 (D) by realigning the margins of paragraphs (2) through (4) so as to align with paragraph (4) of subsection (a);
 (E) in paragraph (2), by striking "In any case" and inserting "INCREASE IN ALLOTMENTS.—In any case";
 (F) in paragraph (3), by striking "A State" and inserting "MONITORING THE ADMINISTRATION OF THE SYSTEM.—A State";
 (G) in paragraph (4), by striking "Notwithstanding" and inserting "REDUCTION OF ALLOTMENT.—Notwithstanding"; and
 (H) by inserting at the end the following new paragraph:
 "(5) TECHNICAL ASSISTANCE AND AMERICAN INDIAN CONSORTIUM.—In any case in which amounts appropriated under section 143 for a fiscal year exceeds \$24,500,000, the Secretary shall—
 "(A) use not more than 2 percent of the amounts appropriated to provide technical assistance (consistent with requests by such systems for such assistance in the year that appropriations reach \$24,500,000) to eligible systems with respect to activities carried out under this title; and
 "(B) provide grants in accordance with paragraph (1)(A)(i) to American Indian Consortia to provide protection and advocacy services";
 (3) in subsection (c), by striking "Any amount" and inserting "UNOBLIGATED FUNDS.—Any amount";
 (4) in subsection (d)—
 (A) in the matter preceding paragraph (1), by striking "In States" and inserting "GOVERNING BOARD.—In States";
 (B) in paragraph (1), by inserting before the semicolon "and include individuals with developmental disabilities who are eligible for services, or have received or are receiving services, or parents, family members, guardians, advocates, or authorized representatives of such individuals";
 (C) in paragraph (2), by striking "and" at the end thereof;
 (D) in paragraph (3), by striking the period and inserting "; and"; and
 (E) by adding at the end the following new paragraph:
 "(4) in States in which the system is organized as a public system without a multimember governing or advisory board, the system shall establish an advisory council that shall—
 "(A) advise the system on policies and priorities to be carried out in protecting and advocating the rights of individuals with developmental disabilities; and
 "(B) consist of a majority of individuals with developmental disabilities who are eligible for services, or have received or are receiving services, or parents, family members, guardians, advocates, or authorized representatives of such individuals";
 (5) in subsection (e), by striking "As used" and inserting "RECORDS.—As used";
 (6) in subsection (f)—
 (A) by striking "If the" and inserting "ACCESS TO RECORDS.—If the"; and
 (B) in the matter preceding paragraph (1) by striking "persons" and inserting "individuals";
 (7) in subsection (g)—
 (A) by striking "(g)(1) Nothing" and inserting the following:
 "(g) LEGAL ACTION.—
 "(1) IN GENERAL.—Nothing";
 (B) in paragraph (1), by striking "persons" and inserting "individuals"; and
 (C) in paragraph (2), by striking "(2) Amounts" and inserting the following:
 "(2) USE OF AMOUNTS FROM JUDGMENT.—Amounts";
 (8) in subsection (h), by striking "Notwithstanding" and inserting "PAYMENT TO SYSTEMS.—Notwithstanding";
 (9) by redesignating subsections (b) through (h) as subsections (c) through (i), respectively;

(10) by inserting after subsection (a) the following new subsection:

"(b) AMERICAN INDIAN CONSORTIUM.—Upon application to the Secretary, an American Indian consortium, as defined in section 102, established to provide protection and advocacy services under this part, shall receive funding pursuant to subsection (c)(5). Such consortium all coordinate activities with existing systems.";

(11) by adding at the end the following new subsections:

"(j) DISCLOSURE OF INFORMATION.—For purposes of any periodic audit, report, or evaluation required under this Act, the Secretary shall require a program to disclose the identity of, any other personally identifiable information related to, any individual requesting assistance under such program.

"(k) PUBLIC NOTICE OF FEDERAL ONSITE REVIEW.—The Secretary shall provide advance public notice of any Federal programmatic and administrative review and solicit public comment on the system funded under this part through such notice. The findings of the public comment solicitation notice shall be included in the onsite visit report. The results of such review shall be distributed to the Governor of the State and to other interested public and private parties."

C. 304. AUTHORIZATION OF APPROPRIATIONS. Section 143 (42 U.S.C. 6043) is amended—

(1) by striking "SEC. 143.";

(2) in the section heading, by striking "AUTHORIZATION OF APPROPRIATIONS" and inserting the following new section heading:

SEC. 143. AUTHORIZATION OF APPROPRIATIONS."

(3) by striking "\$24,200,000 for fiscal year 91" and inserting "\$24,000,000 for fiscal year 94"; and

(4) by striking "fiscal years 1992 and 1993" and inserting "fiscal years 1995 and 1996".

TITLE IV—UNIVERSITY AFFILIATED PROGRAMS

C. 401. PART HEADING.

The heading of part D of title I of the Act is amended to read as follows:

"PART D—UNIVERSITY AFFILIATED PROGRAMS"

C. 402. PURPOSE.

Section 151 (42 U.S.C. 6061) is amended to read as follows:

SEC. 151. PURPOSE AND SCOPE OF ACTIVITIES.

"The purpose of this part is to provide for grants to university affiliated programs that are interdisciplinary programs operated by universities, or by public or nonprofit entities associated with a college or university, to provide a leadership role in the promotion of independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities through the provision of the following activities, which are conducted in a culturally competent manner:

(1) Interdisciplinary preservice preparation students and fellows, including the preparation of leadership personnel.

(2) Community service activities that shall include community training and technical assistance for or with individuals with developmental disabilities, family members of individuals with developmental disabilities, professionals, paraprofessionals, students, and volunteers. Such activities may include state-of-the-art direct services including family support, individual support, personal assistance services, educational, vocational, clinical, health, prevention, or other direct services.

(3) Dissemination of information and research findings, which may include the empirical validation of activities relevant to the purposes described in paragraphs (1) and (2) and contributions to the development of new knowledge in the field of developmental disabilities."

C. 403. GRANT AUTHORITY.

a) SECTION HEADING.—Section 152 (42 U.S.C. 6062) is amended—

(1) by striking "SEC. 152."; and

(2) in the section heading, by striking "GRANT AUTHORITY" and inserting the following new section heading:

"SEC. 152. GRANT AUTHORITY."

(b) AUTHORITY.—Section 152 (42 U.S.C. 6062) is amended—

(1) in subsection (a)—

(A) by striking "From appropriations" and inserting "ADMINISTRATION AND OPERATION.—From appropriations"; and

(B) by striking "102(18)." and inserting "151. Grants may be awarded for a period not to exceed 5 years.";

(2) in subsection (b), to read as follows:

"(b) TRAINING PROJECTS.—

"(1) IN GENERAL.—From amounts appropriated under section 156(a), the Secretary shall make grants to university affiliated programs receiving grants under subsection (a) to support training projects to train personnel to address the needs of individuals with developmental disabilities in areas of emerging national significance, as described in paragraph (3). Grants awarded under this subsection shall be awarded on a competitive basis and may be awarded for a period not to exceed 5 years.

"(2) ELIGIBILITY LIMITATIONS.—A university affiliated program shall not be eligible to receive funds for training projects under this subsection unless—

"(A) such program has operated for at least 1 year; or

"(B) the Secretary determines that such program has demonstrated the capacity to develop an effective training project during the first year such program is operated.

"(3) AREAS OF FOCUS.—Training projects under this subsection shall train personnel to address the needs of individuals with developmental disabilities in the areas of emerging national significance described in subparagraphs (A) through (H).

"(A) EARLY INTERVENTION.—Grants under this subsection for training projects with respect to early intervention services shall be for the purpose of assisting university affiliated programs in providing training to family members of children with developmental disabilities and personnel from all disciplines involved with interdisciplinary intervention to infants, toddlers, and preschool age children with developmental disabilities. Such training projects shall include instruction on family-centered, community-based, coordinated care for infants, toddlers, and preschool age children with developmental disabilities and their families.

"(B) AGING.—Grants under this subsection for training projects with respect to aging and developmental disabilities shall be for the purpose of supporting the planning, design, and implementation of coordinated interdisciplinary training programs between existing aging or gerontological programs and university affiliated programs in order to prepare professional staff to provide services for aging individuals with developmental disabilities and their families.

"(C) COMMUNITY SERVICES.—Grants under this subsection for training projects with respect to community services shall be for the purpose of providing training that enhances direct supports and services for individuals with developmental disabilities, including training to community members, families, individuals with developmental disabilities, and community-based direct service providers. The Secretary shall ensure that all grants under this subparagraph are made only to university affiliated programs that involve community-level direct support services in the preparation of the application for such grant and that assure that any training under the university affiliated program will be coordinated with local community services and support systems and with State, local, and regional governmental or private agencies responsible for the planning or delivery of services to individuals with developmental disabilities.

"(D) POSITIVE BEHAVIORAL SUPPORTS.—

Grants awarded under this subsection for training projects with respect to positive behavioral supports shall be for the purpose of assisting university affiliated programs in providing training to family members of individuals with developmental disabilities and personnel in methods of developing individual supports that maximize opportunities for independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities and severe behavior problems. Such training projects shall provide training to—

"(i) address ethical and legal principles and standards, including the role of personal and cultural values in designing assessments and interventions;

"(ii) address appropriate assessment approaches that examine the range of factors that contribute to problem behavior;

"(iii) address the development of a comprehensive plan that considers the needs and preferences of an individual with a developmental disability;

"(iv) address the competence in the types of skills training, environmental modification, and incentive procedures that encourage alternative behaviors;

"(v) familiarize training participants with crisis intervention approaches and the separate role of such approaches as short-term emergency procedures;

"(vi) familiarize training participants with medical interventions and how to evaluate the effect of such interventions on behavior; and

"(vii) address techniques for evaluating the outcomes of interventions.

"(E) ASSISTIVE TECHNOLOGY SERVICES.—

Grants under this subsection for training projects with respect to assistive technology services shall be for the purpose of assisting university affiliated programs in providing training to personnel who provide, or will provide, assistive technology services and devices to individuals with developmental disabilities and their families. Such projects may provide training and technical assistance to improve access to assistive technology services for individuals with developmental disabilities and may include stipends and tuition assistance for training project participants. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

"(F) AMERICANS WITH DISABILITIES ACT.—

Grants under this subsection for training projects with respect to the provisions of the Americans with Disabilities Act of 1990 shall be for the purpose of assisting university affiliated programs in providing training to personnel who provide, or will provide, services to individuals with developmental disabilities, and to others concerned with individuals with developmental disabilities.

"(G) COMMUNITY TRANSITION.—Grants under this subsection for training projects with respect to transition from school to adult life shall be for the purpose of assisting university affiliated programs in providing training to individuals with developmental disabilities and their families, generic community agencies, advocacy organizations, and others in order to stimulate the development and improvement of policies, procedures, systems, and other mechanisms that prepare youth with developmental disabilities to enter adult life. Such projects shall be coordinated with State transition projects funded under section 626(e) of the Individuals with Disabilities Education Act, where such State transition projects exist.

"(H) OTHER AREAS.—Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Developmental Disabilities Council.

"(4) COURSES, TRAINEESHIPS AND FELLOWSHIPS.—Grants under this subsection may be used by university affiliated programs to—

"(A) assist in paying the costs of courses of training or study for personnel to provide services for individuals with developmental disabilities and their families; and

"(B) establish fellowships or traineeships providing such stipends and allowances as may be determined by the Secretary.

"(5) PROHIBITED ACTIVITIES.—Grants awarded under this subsection shall not be used for administrative expenses for the university affiliated program under subsection (a).

"(6) CRITERIA.—Grants awarded under this subsection shall meet the criteria described in subparagraphs (A) and (B).

"(A) APPLICATION.—An application that is submitted for a grant under this subsection shall present evidence that training projects assisted by funds awarded under this section are—

"(i) competency and value based;

"(ii) designed to facilitate independence, productivity, and integration and inclusion for individuals with developmental disabilities; and

"(iii) evaluated utilizing state-of-the-art evaluation techniques in the programmatic areas selected.

"(B) GENERAL PROJECT REQUIREMENTS.—Training projects under this subsection shall—

"(i) represent state-of-the-art techniques in areas of critical shortage of personnel that are identified through consultation with the consumer advisory committee described in section 153(d) and the State Developmental Disabilities Council;

"(ii) be conducted in consultation with the consumer advisory committee described in section 153(d) and the State Developmental Disabilities Council;

"(iii) be integrated into the appropriate university affiliated program and university curriculum;

"(iv) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

"(v) to the extent practical, be conducted in environments where services are actually delivered;

"(vi) to the extent possible, be interdisciplinary in nature;

"(vii) utilize strategies to recruit and train members from racial and ethnic minority backgrounds and individuals with disabilities; and

"(viii) address the issue of cultural competence in the training provided."

(3) in subsection (c)—

(A) by striking "From amounts appropriated under section 154(b)" and inserting "SUPPLEMENTAL AWARDS.—From amounts appropriated under section 156(a)";

(B) in paragraph (1)—

(i) by striking "service-related training to persons" and inserting "interdisciplinary training, community training and technical assistance, community services, or dissemination of information to individuals";

(ii) by striking "integration into the community of persons with developmental disabilities" and inserting "integration and inclusion into the community of individuals with developmental disabilities and not otherwise specified in subsection (b)"; and

(iii) by striking "persons" each place such term appears and inserting "individuals";

(C) in paragraph (2)—

(i) by striking "(A) the" and inserting "the";

(ii) by striking "persons" and inserting "individuals";

(iii) by striking "(B) the" and inserting "the"; and

(iv) by striking "parents" and inserting "family members";

(4) by striking subsection (d);

(5) in subsection (e)—

(A) by striking "(e) From amounts appropriated under section 154(a)" and inserting "(d) FEASIBILITY STUDIES.—From amounts appropriated under section 156(a)"; and

(B) by striking—

(i) "or a satellite center"; and

(ii) "or satellite center"; and

(6) by striking subsections (f) and (g).

SEC. 404. APPLICATIONS.

(a) SECTION HEADING.—Section 153 (42 U.S.C. 6063) is amended—

(1) by striking "SEC. 153."; and

(2) in the section heading, by striking "APPLICATIONS" and inserting the following new section heading:

"SEC. 153. APPLICATIONS."

(b) APPLICATIONS.—Section 153 (42 U.S.C. 6063) is amended—

(1) in subsection (a)—

(A) by striking "Not later than six" and inserting: "STANDARDS.—Not later than 12";

(B) by striking "Act of 1984" and inserting "Assistance and Bill of Rights Act Amendments of 1994";

(C) by striking "persons" and inserting "individuals"; and

(D) by striking "section 102(18)" and inserting "section 151";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "No grants" and all that follows through "Such an application" and inserting "ASSURANCES.—The application under subsection (a)";

(B) in paragraph (1), by striking "grant will" and all that follows through "level of such funds;" and inserting the following: "grant will—

"(A) not result in any decrease in the use of State, local, and other non-Federal funds for services for individuals with developmental disabilities and for training of individuals to provide such services, which funds would (except for such grant) be made available to the applicant; and

"(B) be used to supplement and, to the extent practicable, increase the level of such funds;"

(C) in paragraph (2), by striking "subsection (a)" each place such term appears and inserting "subsection (b)";

(D) in paragraph (3)—

(i) by striking "persons" each place such term appears and inserting "individuals";

(ii) by striking "treatment, services, or habilitation" and inserting "services"; and

(iii) by striking "the developmentally disabled" and inserting "individuals with developmental disabilities"; and

(E) in paragraph (5)—

(i) by striking "Planning" and inserting "Developmental Disabilities"; and

(ii) by striking "or the satellite center is or will be located";

(3) by striking subsections (c) and (d);

(4) by redesignating subsections (a), (b), and (e) as subsections (b), (c), and (f), respectively;

(5) by inserting after the section heading the following new subsection:

"(a) IN GENERAL.—No grants may be made under section 152(a) unless an application therefor is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require."

(6) by inserting after subsection (c), as so redesignated by paragraph (4), the following new subsections:

"(d) CONSUMER ADVISORY COMMITTEE.—The Secretary shall only make grants under section 152(a) to university affiliated programs that establish a consumer advisory committee comprised of individuals with developmental disabilities, family members of individuals with developmental disabilities, representatives of State protection and advocacy systems, State developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for individuals with developmental disabilities, which may include representatives from parent training and information centers.

The consumer advisory committee shall reflect the racial and ethnic diversity of the geographic area served by the university affiliated program.

"(e) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of any project to be provided through grants under this part may not exceed 75 percent of the necessary cost of such project, as determined by the Secretary, except that if the project activities or products target individuals with developmental disabilities who live in an urban or rural poverty area, the Federal share may not exceed 90 percent of the project's necessary costs as so determined by the Secretary.

"(2) PROJECT EXPENDITURES.—For the purpose of determining the Federal share with respect to any project, expenditures on that project by a political subdivision of the State or by a public or private entity shall, subject to such limitations and conditions as the Secretary may by regulation prescribe, be considered to be expenditures made by a university affiliated program under this part."

(7) in subsection (f), as so redesignated by paragraph (4)—

(A) by striking "(f)(1) The Secretary" and inserting the following:

"(f) PEER REVIEW.—

"(1) IN GENERAL.—The Secretary:

(B) in paragraph (1), by striking "Such peer review" and all that follows through "152(b)(1)(D)";

(C) in paragraph (2)—

(i) by striking "(2) Regulations" and inserting the following:

"(2) REGULATIONS.—Regulations"; and

(ii) by striking "experience of training" and inserting "experience and training";

(D) in paragraph (3), to read as follows:

"(3) APPROVAL.—

"(A) IN GENERAL.—The Secretary may approve an application under this part only if such application has been recommended by a peer review group that has conducted the peer review required under paragraph (1).

"(B) APPLICABILITY.—This paragraph shall apply to the approval of grant applications received for fiscal year 1990 and succeeding fiscal years."

(E) in paragraph (4)—

(i) by striking "(4) The Secretary" and inserting the following:

"(4) ESTABLISHMENT OF PEER REVIEW GROUPS.—The Secretary:

(ii) by realigning the margins of subparagraphs (A) and (B) so as to align with the margin of subparagraph (A) of paragraph (3); and

(F) in paragraph (5), by striking "(5) The Secretary" and inserting the following:

"(5) WAIVERS OF APPROVAL.—The Secretary:

(8) by adding at the end the following new subsection:

"(g) REVIEW BY OTHER FEDERAL AGENCIES.—The Secretary shall establish such a process for the review of applications for grants under section 152(a) as will ensure, to the maximum extent feasible, that each Federal agency that provides funds for the direct support of the applicant's program reviews the application."

SEC. 405. GRANT AWARDS.

Section 154 (42 U.S.C. 6064) is amended to read as follows:

"SEC. 154. PRIORITY FOR GRANT AWARDS.

"(a) IN GENERAL.—In awarding and distributing grant funds under this part, the Secretary, subject to the availability of appropriations, shall award and distribute grant funds in accordance with the following order of priorities:

"(1) EXISTING STATE UNIVERSITY AFFILIATED PROGRAMS.—First priority shall be given, with respect to the provision of grant awards under section 152(a) in the amount of \$200,000, to an existing State university-affiliated program that meets the requirements under section 153.

"(2) UNSERVED STATES.—Second priority shall be given, with respect to the provision of grant

awards under section 152(a) in the amount of \$200,000, to a university or public or nonprofit entity associated with a college or university that desires to establish a university-affiliated program in a State that is unserved by a university-affiliated program as of the date of enactment of the Developmental Assistance and Bill of Rights Act Amendments of 1994.

"(3) TRAINING PROJECTS IN ALL UNIVERSITY AFFILIATED PROGRAMS.—Third priority shall be given, with respect to the provision of grant awards, to each university-affiliated program that receives funding under section 152(a) and that meets the eligibility limitations under section 152(b) to the establishment of training projects under section 152(b) in the amount of \$90,000 in each such program.

"(4) INCREASED FUNDING FOR TRAINING PROJECTS.—Fourth priority shall be given, with respect to the provision of grant awards, to the provision of an increase in the amount of a training project grant award under section 152(b) to \$100,000.

"(5) INCREASED FUNDING FOR UNIVERSITY AFFILIATED PROGRAMS.—Fifth priority shall be given, with respect to the provision of grant awards, to the provision of an increase in the amount of a university-affiliated program grant award under section 152(a) to \$250,000.

"(6) ADDITIONAL TRAINING.—Sixth priority shall be given, with respect to the provision of grant awards, to an existing university-affiliated program in a State that is served by such program under section 152(a) to provide additional training under subsection (b) or (c) of section 152 within such State or other geographic regions, or to a university or public or nonprofit entity associated with a college or university that desires to establish another university-affiliated program within such State under section 152(a). All applications submitted to the Secretary for such grant awards shall document plans for coordinating activities with an existing university-affiliated program in the State (if applicable) and in consultation with the State Developmental Disabilities Council.

"(b) ADDITIONAL PROGRAMS.—For purposes of making grants under subsection (a)(6), the Secretary shall consider applications for grants for university-affiliated programs—

"(1) for States that are currently underserved by a university-affiliated program; and

"(2) that are in addition to the total number of university-affiliated programs receiving grants under this subsection for the preceding fiscal year.

"(c) SINGLE APPLICATION.—When every State is served by a university-affiliated program under section 152(a) in the amount of \$200,000 and every such program has been awarded a training grant under section 152(b) in the amount of \$90,000, the Secretary may accept applications under such sections in a single application."

SEC. 406. AUTHORIZATION OF APPROPRIATIONS AND DEFINITION.

Part D of title 1 (42 U.S.C. 151 et seq.) is amended by adding at the end the following new sections:

"SEC. 155. DEFINITION.

"For purposes of this part, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, and Guam.

"SEC. 156. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For the purpose of making grants under subsections (a), (b), (c), and (d) of section 152, there are authorized to be appropriated \$19,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

"(b) LIMITATION.—With respect to peer review or other activities directly related to peer review, the Secretary may not use—

"(1) for fiscal year 1994, more than \$300,000 of the funds made available under subsection (a) for such review or such other activities; and

"(2) for any succeeding fiscal year, more than the amount of the funds made available under paragraph (1) adjusted to take into account the increase in the Consumer Price Index for such fiscal year for such review or such other activities."

TITLE V—PROJECTS OF NATIONAL SIGNIFICANCE

SEC. 501. PART HEADING.

The heading of part E of title I of the Act is amended to read as follows:

"PART E—PROJECTS OF NATIONAL SIGNIFICANCE"

SEC. 502. PURPOSE.

Section 161 (42 U.S.C. 6081) is amended to read as follows:

"SEC. 161. PURPOSE.

"The purpose of this part is to provide for grants and contracts for projects of national significance that support the development of national and State policy to enhance the independence, productivity, and integration and inclusion of individuals with developmental disabilities through—

"(1) data collection and analysis;

"(2) technical assistance to enhance the quality of State Developmental Disabilities Councils, protection and advocacy systems, and university-affiliated programs; and

"(3) other projects of sufficient size and scope that hold promise to expand or improve opportunities for individuals with developmental disabilities, including—

"(A) technical assistance for the development of information and referral systems;

"(B) educating policymakers;

"(C) Federal interagency initiatives;

"(D) the enhancement of participation of racial and ethnic minorities in public and private sector initiatives in developmental disabilities;

"(E) transition of youth with developmental disabilities from school to adult life; and

"(F) special pilots and evaluation studies to explore the expansion of programs under part B to individuals with severe disabilities other than developmental disabilities."

SEC. 503. GRANT AUTHORITY.

"(a) SECTION HEADING.—Section 162 (42 U.S.C. 6082) is amended—

"(1) by striking "SEC. 162."; and

"(2) in the section heading, by striking "GRANT AUTHORITY" and inserting the following new section heading:

"SEC. 162. GRANT AUTHORITY."

"(b) AUTHORITY.—Section 162 (42 U.S.C. 6082) is amended—

"(1) in subsection (a), to read as follows:

"(a) IN GENERAL.—The Secretary—

"(1) shall make grants to and enter into contracts with public or nonprofit private entities for projects of national significance relating to individuals with developmental disabilities to—

"(A) support ongoing data collection on expenditures, residential services and employment, and develop an ongoing data collection system, including data collection on the accomplishments of State Developmental Disabilities Councils, protection and advocacy systems, and university-affiliated programs that includes data on the participation of individuals from racial and ethnic minority backgrounds; and

"(B) provide technical assistance (including research, training, and evaluation) that expands or improves the effectiveness of State Developmental Disabilities Councils under part B, protection and advocacy systems under part C, and university-affiliated programs under part D, including the evaluation and assessment of the quality of services provided to individuals with developmental disabilities and other activities performed by programs under parts B, C, and D; and

"(2) may make grants to and enter into contracts with public or nonprofit private entities for projects of national significance relating to individuals with developmental disabilities to

conduct other nationally significant initiatives of sufficient size and scope that hold promise of expanding or otherwise improving opportunities for individuals with developmental disabilities, including—

"(A) conducting research and providing technical assistance to assist States to develop statewide, comprehensive information and referral and service coordination systems for individuals with developmental disabilities and their families that are culturally competent and that improve supportive living and quality of life opportunities that enhance recreation, leisure, and fitness;

"(B) educating policymakers, including the training of self-advocates and family members of individuals with developmental disabilities;

"(C) pursuing Federal interagency initiatives that enhance the ability of Federal agencies to address the needs of individuals with developmental disabilities and their families;

"(D) expanding or otherwise improving opportunities for individuals with developmental disabilities who are from racial and ethnic minority backgrounds including projects to encourage members of such groups to participate in the Developmental Disabilities Programs authorized under parts B, C, and D; and increase the involvement of students and professionals of such groups in the provision of services to, supports to, and advocacy for, individuals with developmental disabilities; and

"(E) conducting research and providing technical assistance to policymakers concerning the transition of youth with developmental disabilities from school to work and to adult life."

"(2) in subsection (b), to read as follows:

"(b) APPLICATION AND OTHER GRANT REQUIREMENTS.—No grant may be made under subsection (a) unless—

"(1) an application has been submitted to the Secretary in such form, in such manner, and containing such information as the Secretary shall by regulation prescribe and such application has been approved by the Secretary;

"(2) each State in which the applicant's project will be conducted has a State plan approved under section 122;

"(3) the application provides assurances that the human rights of all individuals with developmental disabilities (especially those individuals without familial protection) who are receiving services under projects assisted under this part will be protected consistent with section 110, (relating to the rights of individuals with developmental disabilities);

"(4) the applicant demonstrates, where appropriate, how the project will address, in whole or part, the needs of individuals with developmental disabilities from racial and ethnic minority backgrounds; and

"(5) the Secretary provides to the State Developmental Disabilities Council in such State an opportunity to review the application for such project and to submit its comments on the application."

"(3) in subsection (c), by striking "Not later" and inserting "PRIORITIES FOR GRANTS.—Not later":

"(4) in subsection (d)—

"(A) by striking "Payments under" and inserting "GRANT PAYMENTS.—Payments under"; and

"(B) by inserting before the period in the second sentence ", except as otherwise provided under section 163";

"(5) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

"(6) by inserting after subsection (a) the following new subsection:

"(b) INVESTIGATIONS.—

"(1) IN GENERAL.—Not later than April 1, 1994, there shall be a special initiative to support grants to investigate the expansion of part B activities to individuals with severe disabilities other than developmental disabilities. Such investigations shall be implemented through the following activities:

"(A) A national study of State Developmental Disabilities Councils that are currently man-

dated under State law or Executive order to focus on individuals with disabilities other than developmental disabilities. Such study shall be completed not later than June 30, 1995.

"(B) Pilot initiatives by not more than five additional State Developmental Disabilities Councils, in consultation with and with the support of the protection and advocacy system and the university affiliated program in such State, to study the implications of such expansion in States in which such Councils are located and to delineate barriers, opportunities, and critical issues. Such initiatives shall be completed not later than January 1996.

"(C) A national study of the process and outcomes of the pilot studies conducted under subparagraph (B). Such study shall be completed not later than May 30, 1996.

"(2) APPLICATION.—No grant may be made under this subsection unless an applicant submits to the Secretary an application, and meets the additional application requirements, under subsection (c)"; and

(7) by adding at the end thereof the following new subsection:

"(f) LIST OF RECIPIENTS.—Not later than September 1 of each fiscal year, the Secretary shall publish in the Federal Register a list of the recipients of grants and contracts in each of the areas authorized in subsections (a) and (b), including a brief description of the project, and the amount of funds granted to each such project. The amounts for such grants and contracts shall total the amount appropriated under this part for such fiscal year."

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 163(a) (42 U.S.C. 6083(a)) is amended—

(1) by striking "\$3,650,000" and inserting "\$4,000,000";

(2) by striking "fiscal year 1991" and inserting "fiscal year 1994"; and

(3) by striking "fiscal years 1992 and 1993" and inserting "fiscal years 1995 and 1996".

(b) LIMITATIONS.—Section 163(b) (42 U.S.C. 6083(b)) is amended to read as follows:

"(b) LIMITATIONS.—

"(1) PROJECTS OF NATIONAL SIGNIFICANCE.—At least 8 percent, but in no event less than \$300,000, of the amounts appropriated pursuant to subsection (a) shall be used to carry out the provisions of section 162(a)(1)(B).

"(2) INVESTIGATIONS.—

"(A) IN GENERAL.—The additional authority to fund projects under section 162(b) shall not be construed as requiring the Secretary to supplant funding for other priorities described in this part.

"(B) TIME LINE FOR FUNDING.—If amounts are available to carry out subparagraphs (A), (B), and (C) of section 162(b)(1), the Administration shall provide funding to carry out such subparagraphs not later than May 1 of the fiscal year in which such funds become available.

"(3) PROGRAMMATIC REVIEWS OR OTHER ADMINISTRATIVE ACTIVITIES.—The Secretary may not use the funds made available under subsection (a) for programmatic reviews as prescribed by regulation or other administrative activities under parts B, C, and D.

"(4) TECHNICAL ASSISTANCE FOR PROTECTION AND ADVOCACY SYSTEMS.—If technical assistance to improve the effectiveness of protection and advocacy systems under part C is provided under section 142(c)(5)—

"(A) no funding for the provision of such technical assistance to protection and advocacy systems shall be provided under this part; and

"(B) the amount set aside for technical assistance under section 162(a)(1)(B) shall be proportionally reduced."

And the House agree to the same.

JOHN D. DINGELL,
HENRY A. WAXMAN,
SHERROD BROWN,
CARLOS J. MOORHEAD,
TOM BLILEY,

Managers on the Part of the House.

EDWARD M. KENNEDY,
TOM HARKIN,
HOWARD M. METZENBAUM,
NANCY LONDON
KASSEBAUM,
DAVE DURENBERGER,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1284) to extend and improve the Developmental Disabilities Assistance and Bill of Rights Act, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

PART A—GENERAL PROVISIONS

1. Findings, purpose and policy

(a) FINDINGS.—With slightly different wording, both the Senate bill and the House amendment update the findings of the Act.

The House recedes to the Senate and the Senate recedes to the House with an amendment. The amendment inserts a new finding to read as follows:

"there is a need to ensure that services, supports, and other assistance are provided in a culturally competent manner, that individuals from racial and ethnic minority backgrounds are fully included in all activities under this Act, and that greater efforts are made to recruit individuals from minority backgrounds into the field of developmental disabilities."

The amendment shall include the following findings from the Senate bill: (1), (4), (5), and (7). The amendment shall include the following findings from the House amendment: (2), (3), (6), (8), and (9). The new finding shall be number (9) and number (9) in the House amendment shall be renumbered (10).

(b) PURPOSE.—With slightly different wording, both the Senate bill and the House amendment update the purpose of the Act.

The House recedes to the Senate and the Senate recedes to the House, with an amendment. First, the amendment includes the introductory phrase from the Senate bill and inserts the phrase "participate in the design of and" before the phrase "have access to culturally competent services."

Second, paragraph (1) from the House amendment, shall be included and shall be amended by inserting "activities (that are consistent with the policy under subsection (c)(2))" after advocacy.

Third, the amendment shall include paragraphs (2), (3), and (4) from the Senate bill.

(c) POLICY.—With slightly different wording, the Senate bill and the House amendment add a policy section to the Act.

The House recedes to the Senate and the Senate recedes to the House with an amendment. First, the amendment shall include paragraphs (2) and (3) from the House amendment and paragraphs (1), (4), (5), and (6) from the Senate bill.

Second, paragraph (1) is amended by inserting the phrase "often require" before the

phrase "the provisions of services, supports and other assistance" and striking the phrase "can improve such individuals' ability".

Third, paragraph (5) is amended by striking "communities accept and support individuals with developmental disabilities" and inserting "with education and support, communities can be responsive to the needs of individuals with developmental disabilities and their families".

Fourth, paragraph (6) is amended by striking "have opportunities" and inserting "should have access to opportunities".

Fifth, the amendment inserts, after paragraph (4), two additional principles to read as follows:

"(5) specific efforts must be made to ensure that individuals from racial and ethnic minority backgrounds enjoy effective and meaningful opportunities for full participation in the developmental disabilities service system;" and

"(6) recruitment efforts within development disabilities at the level of preservice training, community training, practice, administration and policy-making must focus on bringing larger numbers of racial and ethnic minorities into the field in order to provide appropriate skills, knowledge, role models, and sufficient manpower to address the growing needs of an increasingly diverse population;."

Sixth, paragraph (5) and (6) from the Senate bill are renumbered (7) and (8) respectively.

Questions have been raised regarding the meaning of the language in the first full paragraph on page 8 of the House Committee Report No. 103-378 that accompanies H.R. 3505.

In lieu of such language, the conferees make the following statement of Congressional intent:

First, the goals expressed in this Act to promote the greatest possible integration and independence for individuals with development disabilities may not be read as a Federal policy supporting the closure of residential institutions.

Second, the programs established under Parts B and D of the Act shall use the resources made available under this Act in accordance with the purposes and statement of policy set forth in the Act, including to assist States to create community options for individuals and families who state or demonstrate their desire to such options.

Third, Protection and Advocacy systems established under Part C of the Act shall use the resources made available under this Act in accordance with the purposes and statement of policy set forth in the Act, and are authorized to pursue appropriate remedies to address the violation of rights under other laws in all settings, including community, and ICF/MR institutions. This includes responding to ICF/MR reports and correction plans and complaints concerning community placements.

2. Definitions

The Senate bill, but not the House amendment, updates several definitions, adds new definitions, deletes definitions that are obsolete, and alphabetizes the definitions.

The House recedes with an amendment. First, the section is amended by inserting a definition for the term "Culturally Competent" as follows: "The term 'culturally competent' means services, supports or other assistance that are conducted or provided in a manner that is responsive to the beliefs, interpersonal styles, attitudes, language and behaviors of individuals who are receiving services, and in a manner which has the greatest likelihood of ensuring their maximum participation in the program."

Second, the section is amended by inserting a definition for the term "Unserved and Underserved" as follows: "The term 'unserved and underserved' includes populations such as individuals from racial and ethnic minority backgrounds, disadvantaged individuals, individuals with limited-English proficiency, individuals from underserved geographic areas (rural or urban), and specific groups of individuals within the population of individuals with developmental disabilities, including individuals with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments."

Third, the section is amended by striking the definition of systemic advocacy.

3. Federal share

The Senate bill, but not the House amendment, repeals section 103 of the Act (Federal Share). These provisions are moved to parts B and parts D.

The House recedes.

4. Recovery

The Senate bill, but not the House amendment, repeals section 105 of the Act (Recovery).

The House recedes.

5. State control of operations

The Senate bill, but not the House amendment, strikes "facility for persons" and inserts "programs, services and supports for individuals" in section 106 of the Act (State Control of Operations).

The House recedes. This language conforms to the Rehabilitation Act of 1973, as amended by the Rehabilitation Act Amendments of 1992.

6. Reports

(a) The Senate bill, but not the House amendment, includes provisions that would allow Councils to selectively review the survey reports and correction and reduction plans related to the ICF/MR program, and summary data that may be available. This replaces a provision that requires Councils to review each report and each plan.

The House recedes.

(b) The Senate bill, but not the House amendment, strikes "1902(a)(31)(C)" in section 107(a)(4) of the Act and inserts "1902(a)(31)(C)." This is simply a more general reference and does not change the intent of this provision.

The House recedes.

(c) The Senate bill, but not the House amendment, includes a provision that requires Councils and the Secretary to include in their annual report a description of trends and progress made in the State on behalf of individuals with developmental disabilities.

The House recedes with an amendment that strikes "including individuals" and inserts "particularly individuals" in sections 107(a)(5)(A) and 107(c)(1)(C)(i) of the Act.

(d) The Senate bill, but not the House amendment, includes a provision that requires Councils and the Secretary, in their annual reports, to describe systemic change, capacity building and advocacy activities that affect individuals with disabilities other than developmental disabilities.

The House recedes.

(e) The Senate bill, but not the House amendment, requires that the State Developmental Disabilities Councils include, in their annual report to the Secretary, a description of the resources leveraged as a result of Council activities.

The House recedes.

(f) The Senate bill, but not the House amendment, requires that the annual report of the Council include a description of the council's dissemination plans for the annual report that target affected constituencies and the general public, and a requirement

that the report must be available in accessible formats.

The House recedes.

(g) The Senate bill, but not the House amendment, requires the protection and advocacy systems to include in their annual report to the Secretary a description of the system's priorities for the year, the process used to obtain public input, the nature of the input, and how it was used.

The House recedes.

7. Employment of individuals with disabilities

The Senate bill, but not the House amendment, strikes "Handicapped Individuals" in the heading of section 109 of the Act and inserts "Individuals with Disabilities," and strikes "rehabilitation facilities" and inserts "community rehabilitation programs."

The House recedes.

PART B—FEDERAL ASSISTANCE TO STATE DEVELOPMENTAL DISABILITIES COUNCILS

1. Purpose

The Senate bill, but not the House amendment, updates the purpose of this part by including the concepts of systemic change, capacity building, and advocacy activities for Developmental Disabilities Councils to reflect the overall role of the Council. Also the concepts of consumer and family-centered are added by the bill to reflect the principles that services, supports and other assistance should be provided in a manner that demonstrates respect for individual dignity, personal preferences, and cultural differences, and that individuals with developmental disabilities and their families are the primary decisionmakers regarding the services, supports and other assistance they receive.

The House recedes with an amendment that inserts "activities that are consistent with the policy under section 101(c)(2)" after "advocacy" and inserts "culturally competent" before "services, supports and other assistance."

2. State plan

The Senate bill, but not the House amendment, makes several modifications and additions to the State plan, and significantly reorganizes the section by grouping related provisions together.

The House recedes with an amendment. First, the amendment inserts a new provision after section 122(c)(3)(C)(ii) as amended by the Senate bill, specifying that the examination of the priority areas required in the comprehensive review and analysis, include "an analysis of the barriers which impede full participation by members of unserved and underserved groups". The new provision shall be numbered (iii) and provisions (iii) through (viii) in the Senate bill shall be renumbered (iv) through (ix), respectively.

Second, section 122(c)(3)(C)(ix), as renumbered, is amended by striking "(v)" and inserting "(vi)".

Third, section 122(c)(5)(M) as amended by the Senate bill, is amended by inserting the following at the end of the provision: "except that the designated State agency shall have the authority necessary to carry out the responsibilities described in section 124(d)(3)."

3. Habilitation plans

The Senate bill, but not the House amendment, repeals section 123 of the Act.

The House recedes. The conferees note that this section is not relevant for the programs funded under this Act because they do not provide direct treatment or habilitation services to individuals. Instead, a provision is included in the assurances that grantees that provide any direct services funded under part B will be provided in an individualized manner, consistent with unique strengths, resources, priorities, concerns, abilities, and capabilities of an individual.

4. State developmental disabilities councils

The Senate bill, but not the House amendment, significantly reorganizes the section on State Developmental Disabilities Councils.

(a) PURPOSE.—The Senate bill, but not the House amendment, specifies the purpose of the Council.

The House recedes with an amendment that, in section 124(a) as amended by the Senate bill, strikes "conduct" and inserts "promote through", and strikes "on behalf of all individuals with developmental disabilities" and inserts "(consistent with section 101(c)(2)) the development of a consumer and family-centered, comprehensive system and a coordinated array of culturally competent services, supports and other assistance designed to achieve independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities."

(b) COUNCIL MEMBERSHIP.—The Senate bill, but not the House amendment, further specifies procedures for appointments to the Council, rotation of members, and composition of the Council.

The House recedes with an amendment. First, section 124(b)(1) as amended by the Senate bill, is amended by striking "The Council shall coordinate" and inserting "The Council may, at the request of the Governor, coordinate".

Second, section 124(b)(2) as amended by the Senate bill, is amended by striking "and the Secretary, and the Secretary shall contact the Governor".

Third, section 124(b)(5)(B) as amended by the Senate bill, is amended by striking "or immediate relatives" and inserting "and immediate relatives".

(c) COUNCIL RESPONSIBILITIES.—The Senate bill, but not the House amendment, specifies the responsibilities of the Council.

The House recedes with an amendment. First, section 124(c)(1), as amended by the Senate bill, is amended by inserting the "Activities" after "Advocacy" the end of the heading.

Second, section 124(c)(4)(K) as amended by the Senate bill, is amended by striking "expand and enhance the" and inserting "promote the development of a consumer and family-centered, comprehensive system and a coordinated array of culturally competent services, supports and other assistance designed to achieve."

Third, section 124(c)(6) as amended by the Senate bill, is amended by striking "appropriateness of the designated State agency" and inserting "designated State agency with respect to activities carried out under this Act".

Fourth, section 124(c)(8)(B) as amended by the Senate bill, is amended by striking "that negatively affect the provision of staff support to the Council" and inserting "to the extent that such policies would impact staff or functions funded with Federal funds and would prevent the Council from carrying out its functions under this Act".

Fifth, section 124(c)(9) as amended by the Senate bill, is amended by striking "for case only, based on documented performance evaluations and" and striking "Council directors and staff who are exempt from State personnel policies may be dismissed based only on documented performance criteria."

Sixth, section 124(c) is amended by inserting a new paragraph at the end to read "(12) Nothing in this Act shall be construed to authorize a Council to direct, control, or exercise any policymaking authority or administrative authority over any program assisted under the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act."

5. Designated state agencies

The Senate bill, but to the House amendment, incorporates provisions related to the designated State agency into a single subsection, adds a reference to the role of the State legislature in the redesignation process, replaces the phrase "administrative support services" with the phrase "support services" to describe the type of services that are provided to the Council by the designated State agency, clarifies procedures for redesignation and clarifies the responsibilities of the State agency.

The House recedes.

6. 1990 report

The Senate bill, but not the House amendment, groups all provisions related to the report required on January 1, 1990 in one section.

The House recedes. The conferees note that the reviews, analyses and final reports from the 1990 Report continue to be used as an important source of information for Council planning efforts.

7. State allotments

The Senate bill, but not the House amendment, adds a provision that holds each State harmless at the higher of the fiscal year 1992 or fiscal year 1993 levels, with a ratable reduction if funds are not adequate. The bill sets minimum funding levels of \$210,000 for American Samoa, Guam, the Virgin Islands, Northern Mariana Islands and Palau, and \$400,000 for other States if the appropriation is less than \$75,000,000. For appropriations greater than \$75,000,000, the minimum funding levels are set at \$220,000 and \$450,000, respectively.

The House recedes with an amendment that inserts a new subsection after section 125(b) of the Act that reads as follows:

(c) OBLIGATION OF FUNDS.—For the purposes of this Part, State Interagency Agreements are considered valid obligations for the purpose of obligating Federal funds allotted to the State under this Part." The conferees intend to remove any barriers that discourage State Developmental Disabilities Councils from entering into Interagency Agreements that accomplish the purposes of the Council. Sections 125 (c) and (d) of the Act shall be relettered (d) and (e) respectively.

8. Federal and non-Federal share

The Senate bill, but not the House amendment, adds a new section on Federal and non-Federal share. This section groups together related provisions from the Act, including the provision on non-duplication. The bill adds two new provisions—a waiver of the non-Federal share requirement when Council members and staff are the implementing agents of State plan priority activities and a clarification that Councils may vary the non-Federal share required on a grant-by-grant basis, as long as the total non-Federal share meets the statutory requirements.

The House recedes.

9. Review, analysis and report

The Senate bill, but not the House amendment, directs the Secretary to (1) review and analyze the current allotment formula under parts B and C, including the factors, data elements and measures, to determine whether the formula used is consistent with the purpose of the Act, (2) identify alternative funding formulas, consistent with the purpose of the Act, and (3) report back to the relevant Committees in the Senate and the House no later than October 1, 1994.

The House recedes.

10. Authorization of appropriations

The Senate bill authorizes \$77,400,000 for fiscal year 1994, and such sums for 1995 and 1996. The House amendment authorizes

\$70,000,000 for 1994, and such sums for 1995 and 1996.

The Senate recedes.

PART C—PROTECTION AND ADVOCACY OF THE RIGHTS OF INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

1. Title of part

The House amendment, but not the Senate bill, changes the title of this part from "Protection and Advocacy of Individual Rights" to "Protection and Advocacy of the Rights of Individuals with Developmental Disabilities."

The Senate recedes.

2. System requirements

The Senate bill adds or modifies several of the requirements of the Protection and Advocacy systems, including the addition of a provision regarding public notice of Federal onsite reviews. The House amendment adds a provision regarding public notice of Federal onsite reviews, which includes a requirement that the results of such reviews shall be distributed to the Governor of the State and to other interested parties.

The House recedes to the Senate and the Senate recedes to the House, with an amendment. First, section 142(a)(2)(A) as amended by the Senate bill, is amended by striking "underserved geographical areas and."

Second, section 142(a)(2)(J) as amended by the Senate bill, is amended by striking all that appears after "reductions in force" and inserting "prohibitions on staff travel, or other policies to the extent that such policies would impact staff or functions funded with Federal funds and would prevent the system from carrying out its functions under this Act."

Third, the amendment shall include section 142(i) as amended by the House amendment, and such section shall be relettered 142 (k).

3. Authorization of appropriations

The Senate bill authorizes \$29,000,000 for fiscal year 1994, and such sums for 1995 and 1996. The House amendment authorizes \$24,000,000 for 1994, and such sums for 1995 and 1996.

PART D—UNIVERSITY AFFILIATED PROGRAMS

1. Purpose and scope of activities

The Senate bill, but not the House amendment, revises the description of the purpose and scope of university affiliated programs (UAPs) to incorporate updated concepts about these university-based programs. The description of UAPs recognizes the fact that UAPs are located in, or affiliated with universities and, as such, provide an important foundation for higher education's response to the needs of individuals with developmental disabilities and their families. UAPs contribute to and reflect the overall mission of their host universities, and seek to ensure that the activities, resources, and expertise of the university are responsive to individuals with developmental disabilities and their families, advocacy organizations, and service systems and providers.

The House recedes with an amendment that inserts the phrase "which are conducted in a culturally competent manner" after "the following activities."

2. Grant authority

(a) ADMINISTRATION AND OPERATION.—The Senate bill, but not the House amendment, provides for grant periods of up to 5 years.

The House recedes.

(b) TRAINING PROJECTS.—The Senate bill, but not the House amendment, provides for grant periods of up to 5 years for training projects, updates the descriptions of the training project areas, and adds a new training project area—training in the Americans with Disabilities Act (ADA).

The House recedes with an amendment. First, section 152(b)(3)(D)(i) is amended by inserting "and cultural" after "personal".

Second, an additional area of focus for training projects is inserted, to read as follows:

"(G) COMMUNITY TRANSITION.—Grants under this subsection for training projects with respect to transition from school to adult life shall be for the purpose of assisting university affiliated programs in providing training to individuals with developmental disabilities and their families, generic community agencies, advocacy organizations, and others in order to stimulate the development and improvement of policies, procedures, systems, and other mechanisms that prepare youth with developmental disabilities to enter adult life. Such projects shall be coordinated with State transition projects funded under section 626(e) of the Individuals with Disabilities Education Act, where such State transition projects exist." Section 152(b)(3)(G) as amended by the Senate bill shall be relettered 152(b)(3)(H).

(c) CRITERIA FOR TRAINING PROJECTS.—The Senate bill, but not the House amendment, specifies criteria for training projects and adds a requirement that, to the extent possible, training projects shall address the unique needs of individuals with developmental disabilities from ethnic, cultural, and linguistic minority backgrounds.

The House recedes with an amendment that strikes section 152(b)(6)(B)(vii) and inserts the following:

"(vii) utilize strategies to recruit and train individuals from racial and ethnic minority backgrounds and individuals with disabilities; and

"(viii) address the issue of cultural competence in the training provided."

(d) SUPPLEMENTAL AWARDS.—The Senate bill, but not the House amendment, expands the authority for supplemental awards to include interdisciplinary training, community training, technical assistance, community services, and/or dissemination of information.

The House recedes.

(e) SATELLITE CENTERS.—The Senate bill, but not the House amendment, strikes provisions related to satellite centers.

The House recedes. The conferees note that significant progress has been made in reaching the goal of establishing a university affiliated program in every State, making new satellite centers unnecessary. The conferees intend that this provision does not affect the status of the university affiliated program activities being conducted in the Pacific Rim (American Samoa, Guam, and the Northern Mariana Islands) through supplemental funding to the Hawaii university affiliated program. It is not the intent of the conferees that the Pacific Rim become an independent university affiliated program as a result of the removal of the authority for satellite centers.

3. Applications

(a) STANDARDS.—The Senate bill, but not the House amendment, directs the Secretary to establish by regulation, standards for university affiliated programs, within 12 months of the enactment of this Act.

The House recedes.

(b) CONSUMER ADVISORY COMMITTEE.—The Senate bill, but not the House amendment, specifies that representatives from Parent Training and Information Centers may be included in the membership of the Consumer Advisory Committee.

The House recedes with an amendment that inserts at the end of section 153(d) the following: "The consumer advisory committee shall reflect the racial and ethnic diver-

sity of the geographic area served by the university affiliated program."

(c) **FEDERAL SHARE.**—The Senate bill, but not the House amendment, incorporates provisions related to the Federal share from part A of the current law.

The House recedes.

(d) **PEER REVIEW.**—The Senate bill, but not the House amendment, requires that members of peer review groups be qualified by both experience and training. Current law specifies experience or training.

The House recedes.

4. **Grant awards**

(a) **PRIORITY FOR GRANT AWARDS.**—The Senate bill, but not the House amendment, specifies priorities for awarding funds under this part.

The House recedes.

(b) **SINGLE APPLICATION.**—The Senate bill, but not the House amendment, includes a new provision that allows the Secretary to accept applications under sections 152(a) (administration and operation) and 152(b) (training projects) in the same application when every State has a university affiliated program and every university affiliated program has a training project.

The House recedes.

5. **Definition of State**

The Senate bill, but not the House amendment, specifies that for the purposes of this part, the term State is defined as the States of the United States, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

The House recedes with an amendment that includes Guam in the definition of State or this part.

Authorization of appropriations

(a) The Senate bill, but not the House amendment, authorizes the Secretary to use not more than \$300,000 for peer review and related activities.

The House recedes. Conferees encourage the Secretary to use Departmental general operation funds to support these activities to the greatest extent possible and to use funds appropriated under this section for programmatic activities.

(b) The Senate bill authorizes \$21,000,000 for fiscal year 1994, and such sums for 1995 and 1996. The House amendment authorizes 9,000,000 for 1994, and such sums for 1995 and 96.

The Senate recedes.

ART E—PROJECTS OF NATIONAL SIGNIFICANCE
Purpose

The Senate bill, but not the House amendment, expands the purpose of this part to provide for grants and contracts to support special pilot projects to explore the expansion of part B programs (State Developmental Disabilities Councils) to individuals with severe disabilities other than developmental disabilities.

The House recedes with an amendment. First, section 161(3)(D) as amended by the Senate bill, is amended by striking "minority participation" and inserting "participation of racial and ethnic minorities" after "enhancement of".

Second, the section is amended by adding "transition of youth with developmental disabilities from school to adult life" to the list of projects that hold promise to expand or provide opportunities for individuals with developmental disabilities.

Grant authority

(1) **DATA COLLECTION.**—The Senate bill, but not the House amendment, directs the Secretary to fund projects to support on-going a collection on expenditures, residential services and employment and to develop an ongoing data collection system, including data on the accomplishments of

State Developmental Disabilities Councils, protection and advocacy systems, and university affiliated programs.

The House recedes with an amendment that inserts at the end of section 162(a)(1)(A) the following: "that includes data on the participation of individuals from racial and ethnic minority backgrounds."

(b) **TECHNICAL ASSISTANCE.**—The Senate bill, but not the House amendment, directs the Secretary to fund projects to provide technical assistance that expands or improves the effectiveness of State Developmental Disabilities Councils, protection and advocacy systems, and university affiliated programs.

The House recedes.

(c) **OTHER PROJECTS.**—The Senate bill, but not the House amendment, specifies other areas for projects of national significance that the Secretary may support through grants and contracts.

The House recedes with an amendment. First, section 162(a)(2)(A) as amended by the Senate bill, is amended by inserting "that are culturally competent and that" after "and their families".

Second, section 162(a)(2)(D) as amended by the Senate bill, is amended by striking "traditionally unserved or underserved (including individuals of ethnic and racial minority groups, and individuals from underserved geographical areas)" and inserting "from racial and ethnic minority backgrounds".

Third, the amendment inserts after section 162(a)(2)(D) as amended by the Senate bill, the following: "(E) conducting research and providing technical assistance to policymakers concerning the transition of youth with developmental disabilities from school to work and to adult life."

(d) **SPECIAL INITIATIVES.**—The Senate bill, but not the House amendment, directs the Secretary to support grants to conduct an investigation on the expansion of part B programs (Developmental Disabilities Councils) to individuals with severe disabilities other than developmental disabilities.

The House recedes.

(e) **GRANT REQUIREMENTS.**—The Senate bill, but not the House amendment, specifies the requirements for grants under this part.

The House recedes with an amendment that inserts after section 163(b)(3) as amended by the Senate bill, the following:

"(4) the applicant demonstrates, where appropriate, how the project will address, in whole or part, the needs of individuals with developmental disabilities from racial and ethnic minority backgrounds; and"

(f) **LIST OF PROJECT RECIPIENTS.**—The Senate bill, but not the House amendment, directs the Secretary to publish, on an annual basis, the recipients, project descriptions and funding levels for all projects funded under this part, and includes the requirement that the amounts for such grants and contracts shall total the amount appropriated under this part for such fiscal year.

The House recedes.

3. **Authorizations of appropriations**

(a) **LIMITATIONS.**—The Senate bill, but not the House amendment, specifies that the provision to fund special initiatives on the expansion of part B activities to individuals with disabilities other than developmental disabilities shall not be construed as requiring the Secretary to supplant funding for other priorities described in this part.

The House recedes.

(b) **TIME LINE FOR FUNDING.**—The Senate bill, but not the House amendment, specifies that funding to carry out the special initiatives shall be provided no later than May 1 of the fiscal year in which such funds become available.

The House recedes.

(c) **PROGRAM REVIEWS AND ADMINISTRATIVE ACTIVITIES.**—The Senate bill, but not the House amendment, states that the Secretary may not use funds made available under this part for program reviews required by regulation or other administrative activities.

The House recedes.

(d) **TECHNICAL ASSISTANCE.**—The Senate bill, but not the House amendment, includes the provision that if technical assistance to protection and advocacy systems is funded under part C, then no funding for such activity will be provided under part E.

The House recedes.

JOHN D. DINGELL,
HENRY A. WAXMAN,
SHERRON BROWN,
CARLOS J. MOORHEAD,
TOM BLILLEY,

Managers on the Part of the House.

EDWARD M. KENNEDY,
TOM HARKIN,
HOWARD M. METZENBAUM,
NANCY LONDON,
KASSEBAUM,
DAVE DURENBERGER,

Managers on the Part of the Senate.

MULTIFAMILY HOUSING PROPERTY DISPOSITION REFORM ACT OF 1994

Mr. GONZALEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4067) to amend section 203 of the Housing and Community Development Amendments of 1978 to provide for the disposition of multifamily properties owned by the Secretary of Housing and Urban Development, to provide for other reforms in programs administered by the Secretary, and to make certain technical amendments, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4067

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "Multifamily Housing Property Disposition Reform Act of 1994".

(b) **TABLE OF CONTENTS.**—

Sec. 1. Short title and table of contents.

TITLE I—MULTIFAMILY PROPERTY DISPOSITION REFORM

Sec. 101. Multifamily property disposition.

Sec. 102. Repeal of State agency multifamily property disposition demonstration.

Sec. 103. Preventing mortgage defaults on multifamily housing projects.

Sec. 104. Interest rates on assigned mortgages.

Sec. 105. Authorization of appropriations.

TITLE II—OTHER PROGRAM REFORMS
Subtitle A—Home Investment Partnerships Program

Sec. 201. Participation by State agencies or instrumentalities.

Sec. 202. Simplification of program-wide income targeting for rental housing.

Sec. 203. Homeownership units.

Sec. 204. Simplification of matching requirements.

Sec. 205. Repeal of separate audit requirements.

Sec. 206. Environmental review requirements.

Sec. 207. Use of CDBG funds for HOME program expenses.

our rundown parks and allow our youngsters to play with new equipment.

This cooperative effort will bring together law enforcement and social service agencies and park and recreation officials to positively combat juvenile crime.

Non-profits which care for at risk youth such as the Boys and Girls Clubs of America will be able to apply for funding through this bill. In the State of Hawaii, very successful late night basketball leagues will also be able to receive funds to ensure the continuation of these programs. The Honolulu Police Department noted a reduction in the rates of juvenile crime during league activities.

It's sad to see our children sitting around after school with nothing to do. Let's give them all a chance at friendly competition in sports activities. Every child should have an opportunity to say they're No. 1.

Ms. NORTON. Mr. Speaker, I am pleased to rise in support of this thoughtful and urgently-needed legislation. I extend my thanks to the crafters of this bill, particularly full committee Chairman GEORGE MILLER and subcommittee Chairman BRUCE VENTO, who, like many of us in this body, recognize that one of the many challenges we face as a nation working within the constraints of an ever-tightening budget is providing recreational resources and alternatives for the young people who can least afford them and who are at greatest risk if they don't get them.

The Urban Recreation At-Risk Youth Act would add a new category of competitive grants under the Urban Park and Recreation Recovery Program, established in 1978. The new category of "At-Risk Youth Grants" seeks to address the realities of our times—that crime has a chokehold on most of the Nation's urban areas and that the criminals are getting younger and younger. The matching grant funds that would be authorized under this bill would go to the Nation's urban crime hotspots for rehabilitating deteriorating urban recreational facilities and developing recreational programs run by State and local governments as well as non-profit organizations.

The bill's focus on urban areas with high crime rates is especially critical since many of our cities are producing a new generation of criminals—younger, tougher, and remorseless. The more assistance we give to our cities in reaching out to youth, even if only with matching grants, the more we do to aid cities in combating our nation's rising juvenile crime rate.

The District of Columbia provides a prime example of what happens when money for recreational facilities and programs evaporates. In our city, many of the neighborhoods with the highest crime rates are those where the facilities are rusted, broken, or non-existent. A dozen years of neglect are yielding a decade of soaring crime rates and overcrowded prisons. Thus, it is too late for many. Trying juvenile offenders as adults at younger and younger ages has not worked, and neither has imprisoning them for longer periods of time. Isn't it time we supported the alternatives to crime that kids have shown they embrace?

The older folk used to say, "An idle mind is the devil's workshop." In modern times we witness the truth of this axiom every day, particularly in cities full of children and adolescents who have no constructive, safe and fun outlets once the school day ends. Extracurricular recreation programs, be they in our Nation's

parks, schools, community centers, provide an ideal outlet for properly directing youthful energy so that it will not become destructive. We certainly owe our young people opportunities and resources to enjoy this time in their lives and to prepare for a productive adult life. H.R. 4034 won't do all we need to do, certainly not nearly as much what our youth deserve. But it is a thoughtful and well-crafted effort in these budget-conscious times. I am proud to be a cosponsor of this bill and I urge its passage.

Miss COLLINS of Michigan. Mr. Speaker, I want to commend the Interior Committee for bringing to us today the Urban Recreation and At-Risk Youth Act. I will cast an enthusiastic "aye" vote.

This bill would create a new grant program for projects to improve recreational facilities and expand recreational services in urban communities that have a high crime rate. Grantees could, for example, rehabilitate existing facilities or install lights and security telephones. Importantly, grants could be awarded for programs to prevent young people from entering the criminal justice system and priority must be given to youth at greatest risk.

As one who represents an urban district, a district in which unemployment among minority adults is almost 20 percent and among some African-American males is 40 percent, I welcome this new initiative. Adolescents, we all know, are very vulnerable. What parent has not worried about what his or her child is doing after school. Most children in America today are raised in homes with two working parents or by a single working parent. One study found that 27 percent of eighth graders spend two or more hours at home alone every day.

With 60 percent of their time devoted to essential activities, young people have a large chunk of discretionary time. Yet most communities are hard strapped to provide quality after-school programs. Faced with boredom and neglect, some of our young people stray into unproductive activities and delinquency. One authority has said that 25 percent of youngsters aged 10 to 17 are at serious risk of not achieving productive adulthood.

It is long past time for us to recognize that we must give our young people alternatives to the street. By doing so, we are less likely to pay the societal bills for crime, delinquency, substance abuse, teen pregnancies, welfare and health care. And our young people deserve this kind of support and opportunity.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 4034, as amended.

The question was taken.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONFERENCE REPORT ON S. 1284,
DEVELOPMENTAL DISABILITIES
ASSISTANCE AND BILL OF
RIGHTS ACT AMENDMENTS OF
1994

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and agree to the conference report on the Senate bill (S. 1284) to amend the Developmental Disabilities Assistance and Bill of Rights Act to expand or modify certain provisions relating to programs for individuals with developmental disabilities, Federal assistance for priority area activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes.

The Clerk read the title of the Senate bill.

(For conference report and statement, see prior proceedings of the House of today.)

The SPEAKER pro tempore. Pursuant to rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks on S. 1284.

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

There was no objection.

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

Mr. Speaker, the principal purpose of S. 1284 is to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act. The act authorizes four programs designed to assist individuals with developmental disabilities to live more productive lives in communities and institutions: the State developmental disability councils; the protection and advocacy programs; the university affiliated programs; and projects of national significance. These four programs are authorized for a total of \$117 million in fiscal year 1994, which is also the current appropriations level, and such sums as may be necessary for fiscal years 1995 and 1996.

The compromise legislation worked out with the Senate includes resolution of the issues brought to our attention on the needs of individuals living in the community and in institutions.

The legislation enjoys broad support on both sides of the aisle. I would especially like to thank my colleagues, Mr. DINGELL, Mr. BLILEY, Mr. GREENWOOD, and Mr. BROWN for their hard work in bringing us to consensus on this legislation. I would also like to thank my colleagues on the Education and Labor

Committee for their interest and valuable input into this process.

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

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

Mr. Speaker, I rise in support of the conference report on S. 1284.

Mr. Speaker, developmental disabilities are severe, chronic disabilities, either physical, mental, or a combination, which manifest themselves before a person reaches age 22. These disabilities result in substantial limitations in three or more major life areas, such as learning, mobility, and capacity for independent living. There are currently about 3 million individuals with developmental disabilities in the United States.

The developmental disabilities assistance and bill of rights act authorizes four programs: The State grant program; protection and advocacy systems; university affiliated programs; and projects of national significance. These programs work to support the development of a comprehensive system of services and support for people with developmental disabilities.

I am very pleased that language addressing the concerns of the voice of the retarded were incorporated in the conference report. I understand that the original House report language caused concern among several groups in the field. I am pleased that in clarifying this language we retained the language which states: "The goals expressed in this act to promote the greatest possible integration and independence for individuals with developmental disabilities may not be read as a Federal policy supporting the closure of residential institutions."

I am also pleased that all the funding levels in the bill are those that were in the House bill and that several of the concerns of some Governors were addressed.

I support the conference report and urge my colleagues to join me.

□ 1340

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and agree to the conference report on the Senate bill, S. 1284.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to the provisions of clause 12, rule I, the Chair declares the House in recess until 2:30 p.m.

Accordingly (at 1 o'clock and 42 minutes p.m.), the House stood in recess until 2:30 p.m.

□ 1430

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. COLEMAN] at 2 o'clock and 31 minutes p.m.

CONFERENCE REPORT ON H.R. 1804, GOALS 2000: EDUCATE AMERICA ACT

Mr. KILDEE submitted the following conference report and statement on the bill (H.R. 1804) to improve learning and teaching by providing a national framework for education reform; to promote the research, consensus building, and systemic changes needed to ensure equitable educational opportunities and high levels of educational achievement for all students; to provide a framework for reauthorization of all Federal education programs; to promote the development and adoption of a voluntary national system of skill standards and certifications; and for other purposes:

CONFERENCE REPORT (H. REPT. 103-446)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1804), to improve learning and teaching by providing a national framework for education reform; to promote the research, consensus building, and systemic changes needed to ensure equitable educational opportunities and high levels of educational achievement for all students; to provide a framework for reauthorization of all Federal education programs; to promote the development and adoption of a voluntary national system of skill standards and certifications; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act (other than titles V and IX) may be cited as the "Goals 2000: Educate America Act".

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Purpose.
- Sec. 3. Definitions.

TITLE I—NATIONAL EDUCATION GOALS

- Sec. 101. Purpose.
- Sec. 102. National education goals.

TITLE II—NATIONAL EDUCATION REFORM LEADERSHIP, STANDARDS, AND ASSESSMENTS

PART A—NATIONAL EDUCATION GOALS PANEL

- Sec. 201. Purpose.
- Sec. 202. National Education Goals Panel.
- Sec. 203. Duties.
- Sec. 204. Powers of the Goals Panel.
- Sec. 205. Administrative provisions.
- Sec. 206. Director and staff; experts and consultants.
- Sec. 207. Early childhood assessment.

PART B—NATIONAL EDUCATION STANDARDS AND IMPROVEMENT COUNCIL

- Sec. 211. Purpose.
- Sec. 212. National Education Standards and Improvement Council.
- Sec. 213. Duties.
- Sec. 214. Annual reports.
- Sec. 215. Powers of the Council.
- Sec. 216. Publication for public comment.
- Sec. 217. Administrative provisions.
- Sec. 218. Director and staff; experts and consultants.
- Sec. 219. Opportunity-to-Learn Development Grant.
- Sec. 220. Assessment development and evaluation grants.
- Sec. 221. Evaluation.

PART C—LEADERSHIP IN EDUCATIONAL TECHNOLOGY

- Sec. 231. Purposes.
- Sec. 232. Federal leadership.
- Sec. 233. Office of educational technology.
- Sec. 234. Uses of funds.
- Sec. 235. Non-Federal share.
- Sec. 236. Office of training technology transfer.

PART D—AUTHORIZATION OF APPROPRIATIONS

TITLE III—STATE AND LOCAL EDUCATION SYSTEMIC IMPROVEMENT

- Sec. 301. Findings.
- Sec. 302. Purpose.
- Sec. 303. Authorization of appropriations.
- Sec. 304. Allotment of funds.
- Sec. 305. State applications.
- Sec. 306. State improvement plans.
- Sec. 307. Secretary's review of applications; payments.
- Sec. 308. State use of funds.
- Sec. 309. Subgrants for local reform and professional development.
- Sec. 310. Availability of information and training.
- Sec. 311. Waivers of statutory and regulatory requirements.
- Sec. 312. Progress reports.
- Sec. 313. Technical and other assistance regarding school finance equity.
- Sec. 314. National leadership.
- Sec. 315. Assistance to the outlying areas and to the Secretary of the Interior.
- Sec. 316. Clarification regarding State standards and assessments.
- Sec. 317. State planning for improving student achievement through integration of technology into the curriculum.
- Sec. 318. Prohibition on Federal mandates, direction, and control.
- Sec. 319. State and local government control of education.

TITLE IV—PARENTAL ASSISTANCE

- Sec. 401. Parental information and resource centers.
- Sec. 402. Applications.
- Sec. 403. Uses of funds.
- Sec. 404. Technical assistance.
- Sec. 405. Definitions.
- Sec. 406. Reports.
- Sec. 407. General provision.
- Sec. 408. Authorization of appropriations.

TITLE V—NATIONAL SKILL STANDARDS BOARD

- Sec. 501. Short title.

RICHARD BOLLING FEDERAL BUILDING

Mr. CONRAD. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 357, H.R. 2559, to designate the Richard Bolling Federal Building; that the committee substitute amendment be agreed to, and the bill, as amended, be deemed read three times, passed and the motion to reconsider laid upon the table; that the title amendment be agreed to, and any statements appear in the RECORD as if read.

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

The bill, as amended, was deemed read a third time, and passed.

The title amendment was agreed to.

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT AMENDMENTS OF 1993—CONFERENCE REPORT

Mr. CONRAD. Mr. President, I submit a report of the committee of conference on S. 1284 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1284) to amend the Developmental Disabilities Assistance Bill of Rights Act to expand or modify certain provisions relating to programs for certain individuals with developmental disabilities, Federal assistance for priority area activities for individuals with developmental disabilities, protection and advocacy of individual rights, university affiliated programs, and projects of national significance, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of March 21, 1994.)

Mr. HARKIN. I rise today in strong support of the conference report accompanying S. 1284, the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994, which I am proud to have sponsored along with Senators DURENBERGER, KENNEDY, JEFFORDS, METZENBAUM, SIMON, WELLSTONE, WOFFORD, DOLE, PELL, and HATCH.

I especially want to thank my distinguished colleague from Minnesota, Senator DURENBERGER for his wisdom and counsel during the reauthorization process. He has worked long and hard on this bill and he deserves credit for his commitment to enhancing opportunities for individuals with developmental disabilities.

I also want to thank the chairman of the Committee on Labor and Human Resources, Senator KENNEDY, and the

ranking minority member, Senator KASSEBAUM, for their leadership and guidance in developing this legislation.

In addition, I want to thank our colleagues from the other body, for their dedication and hard work in crafting the bill and in reaching the final agreement contained in the conference report.

Finally, I want to pay tribute to the staff members who contributed to this legislation, including Bob Silverstein and Ansley Bacon of my staff, Susan Heegaard of Senator DURENBERGER's staff, and Wendy Cramer of Senator KASSEBAUM's staff.

I want to pay particular tribute to Andy Bacon, who served as a Kennedy Foundation Policy Fellow for the past year with the Subcommittee on Disability Policy. Andy's wealth of knowledge, experience, and leadership enabled her to help me craft a bill that will truly promote independence, productivity, and integration and inclusion into the community for individuals with developmental disabilities. Mr. President, I want to publicly thank Andy for her dedication and hard work and wish her well as she returns to New York.

As we worked on the reauthorization of this legislation, we had the assistance of many organizations and individuals. In particular, I want to express my gratitude to the Developmental Disabilities Task Force of the Consortium for Citizens with Disabilities [CCD]. The CCD is comprised of over 117 organizations with members across the country. Their thoughtful comments and ideas have been so helpful in this process.

As is always the case when the two Houses of Congress pass companion bills, the Senate version was not enacted in its entirety. However, I am pleased that the conference report contains all of the Senate provisions necessary to achieve the goals set out by the Subcommittee on Disability Policy for reauthorization the Developmental Disabilities Assistance and Bill of Rights Act.

Briefly, I would like to summarize some of the important provisions in the conference report.

FINDINGS, PURPOSE AND POLICY

The conference report includes minor modifications to the findings, purpose and policy section of the Senate bill. The most significant change is the addition of the following phrase in the policy section: "any assistance should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the individual." This phrase was used in the 1992 Rehabilitation Act Amendments, and is intended to recognize that each individual is unique and that services, supports and other assistance must be individualized.

After the other body passed H.R. 3505, the companion bill to S. 1284, questions were raised regarding the meaning of language included in the House Re-

port—page 8—relating to the sections in the bill pertaining to the findings, purpose, and policy. I am pleased to report to my colleagues that the conferees expressly refused to accept the House language.

The language included in the conference report makes two points clear. First, the Developmental Disabilities Assistance and Bill of Rights Act does not, in and of itself, establish independent substantive rights that may form the basis of a complaint regarding the operations of a program in a community or institutional setting, including the closure of a program. Second, Protection and Advocacy systems established under part C of the Act are authorized to pursue all appropriate remedies that address particular violations of other Federal and State laws, including where the facts and law warrant it, enjoining abuse and neglect and seeking the closure of programs in community and institutional settings.

CULTURAL DIVERSITY

The conference report includes several provisions to ensure that racial and ethnic minorities are fully included at all levels and in all activities authorized under this Act. These provisions include the addition of language regarding unserved and underserved populations (which includes individuals from racial and ethnic minority backgrounds) and culturally competent services, supports and other assistance. Both terms are defined in the conference report. A new finding and two new principles are included in the conference report to specifically address the need to ensure that individuals from racial and ethnic minority backgrounds are fully included in all aspects of the Act.

STATE DEVELOPMENTAL DISABILITIES COUNCILS

Responsibilities of the Council. The responsibilities of the Council as specified in the Senate bill include the responsibility to conduct systemic change, capacity building and advocacy activities to promote the development of a system and array of services supports and other assistance. The conference report clarifies that the Council role in a State is advisory. It includes a construction clause that states that "Nothing in this Act shall be construed to authorize a Council to direct, control, or exercise any policy making authority or administrative authority over any program assisted under the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act."

The Senate bill specifies Council responsibilities with respect to the budget, and staff hiring and supervision. It includes provisions that exempt State Councils—and protection and advocacy systems—from certain personnel policies such as hiring freezes, reductions in force, and travel restrictions. The conference report clarifies that this exemption applies to the extent that such policies would impact staff or functions funded with federal funds and would prevent the Council—or protec-

tion and advocacy system—from carrying out its functions under this Act. With regard to staff hiring and supervision, the conference report clarifies that Council policies must be consistent with State law and personnel policies.

Responsibilities of the Designated State Agency. The Senate bill defines the responsibilities of the designated State agency under this Act, to provide support services, assume fiscal responsibilities, ensure that the activities of the Council are consistent with State law, and assist the Council in obtaining appropriate State plan assurances. It includes a "noninterference" provision that requires an assurance that the designated State agency will not interfere with the Council's selection of priorities and the programmatic activities of the Council. The conference report clarifies the noninterference provision by specifying that the designated State agency must have the authority necessary to carry out its responsibilities.

Authority of the Governor. The Senate bill maintains the authority of the Governor to appoint members of the State Council and to designate the State agency that will serve as the designated State agency. It requires the Council to coordinate recommendations to the Governor for Council membership. The conference report clarifies that the Council may, at the request of the Governor, coordinate recommendations for appointment to the Council.

The Senate bill requires the Council to notify the Secretary, and the Secretary to contact the Governor regarding Council vacancies that remain unfilled. The conference report clarifies that the Council shall notify the Governor when vacancies on the Council remain unfilled. The conference report also clarifies the Council responsibility to periodically review the designated State agency in terms of its responsibilities under this Act and make any recommendations for change to the Governor.

SCHOOL TO WORK TRANSITION

The conference report adds provisions to include the topic of school to work transition for youth with disabilities as an optional training project area for university affiliated programs and as an area that may be funded under Projects of National Significance.

AUTHORIZATION LEVELS

The Senate bill authorizes the following appropriations levels: State Developmental Disabilities Councils—\$77,400,000; protection and advocacy systems—\$29,000,000; university affiliated programs—\$21,000,000; and Projects of National Significance—\$4,000,000. The conference report includes the following authorization levels: State Councils—\$70,000,000; protection and advocacy systems—\$24,000,000; university affiliated programs—\$19,000,000; and for Projects of National Significance—\$4,000,000.

Finally, serious questions were raised regarding the meaning of the language in the House report. As Chairman of the Subcommittee on Disability Policy and as chief sponsor of the bill, I support the intention of the conferees that the language in the conference report supersede the language in the House report. The conferees believe that the State Developmental Disabilities Councils, protection and advocacy systems and the university affiliated programs must be free to carry out all authorized activities that are consistent with the policies and purpose of the Act.

I urge my colleagues to join me in support of the conference report accompanying S. 1284. I believe that this conference report moves us closer to ensuring that the dream of the Americans with Disabilities Act becomes a reality—an America where citizens with developmental disabilities experience independence, productivity, integration and inclusion into all aspects of society.

Mr. DURENBERGER. Mr. President, I rise today in support of passage of the conference report accompanying S. 1284, the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994. This important piece of legislation moves us closer to assuring that individuals with disabilities and their families have access to the opportunities, services and supports that promote independence, productivity and inclusion into the community.

I want to take the opportunity to thank Senator TOM HARKIN, chairman of the Senate Subcommittee on Disability Policy and his staff Bob Silverstein and Andy Bacon for their hard work and commitment to passing this legislation. I also want to thank Senator KASSEBAUM, Senator JEFFORDS, the other members of this committee and their staffs for their assistance in developing this bill.

My House colleagues are to be commended for their efforts to find common ground with the Senate between the two versions of this bill. Their constructive and positive contributions have helped make this a conference agreement we can truly be proud of.

Finally I want to thank and express my appreciation to all of the individuals and groups who provided us with recommendations and ideas so that this act accurately reflects the needs of individuals with disabilities.

The Developmental Disabilities Act policy includes recognition of the decisionmaking roles played by individuals and their families; recognition that individuals with disabilities and their families have competencies, capabilities, and personal goals that should be recognized, supported and encouraged; respect for individual dignity, personal preferences, and cultural differences and community acceptance and support.

The act strengthens the ability of the State Developmental Disabilities

Councils to carry out systemic change, capacity building, advocacy activities and coordination of activities with other organizations and programs. The role of protection and advocacy systems in each State is clarified in the act. A greater role for consumer input has been included. The description of the core activities conducted by University Affiliated programs has been updated. Finally, the Secretary of Education is authorized to make grants to or enter into contracts with private nonprofit and public entities for projects of national significance relating to individuals with developmental disabilities and their families.

In closing I want to recognize the contribution of a very special person from Minnesota who came to Washington DC, last summer to testify before the subcommittee. Sue Swenson of Minneapolis is the mother of three boys, one of whom Charlie has disabilities. Sue is a graduate of the Partners in Policy-Making Training Program sponsored by the Minnesota Developmental Disabilities Council. Through her own personal empowerment she has educated parents of children with disabilities and changed the attitudes of ordinary people toward individuals with disabilities.

I am proud to have been an original cosponsor of this very important piece of legislation.

Mr. KENNEDY. Mr. President, reauthorization of the Developmental Disability Assistance and Bill of Rights Act preserves and enhances one of the most important national efforts for persons with developmental disabilities. Persons with developmental disabilities continue to encounter discrimination in employment, education, housing, medical care, personal assistance services, and many other areas. The purpose of this Act is to assure that individuals with developmental disabilities and their families participate in the design of, and have access to, appropriate services, support, and opportunities that promote independence, productivity, and inclusion in community life.

Since the enactment of this legislation in the early 1970's, States have been charged with implementing broad reforms—creating new avenues for employment, housing, education, and other opportunities for persons with developmental disabilities.

The Act has provided federal assistance for State Councils on the Developmentally Disabled, advocacy agencies, University Affiliated Programs, and demonstration projects of national significance. These programs have given individuals with developmental disabilities an opportunity to be a full part of society, based on their individual strengths and capabilities.

In Massachusetts, there are approximately 180,000 adults and children with developmental disabilities, and 50 percent are under 21 years of age. The Developmental Disabilities Assistance and Bill of Rights Act has been instru-

mental in assuring that they obtain the resources and opportunities they need and deserve, based on their individual abilities.

Massachusetts is currently in an important period of transition. Large numbers of developmentally disabled adults are moving from major institutions to community-based living environments. Advocacy for these persons during this transition is fundamental to successful integration.

Two State organizations, in particular, have done an excellent job. The Massachusetts Developmental Disability Council has been responsible for family support, respite care, educational and employment training, transitional living, and many other programs. The Massachusetts Disability Law Center was created in 1978 to defend individual rights through direct legal assistance. Since the passage of the Americans with Disability Act, the Center has worked tirelessly to enforce rights in areas of medical care, personal assistance services, housing, education, and employment.

The Act has also supported key institutions working in the area of clinical services and professional training. Institutions such as The Eunice Kennedy Shriver Center and the Boston Children's Hospital Institute for Community Inclusion have been on the cutting edge of clinical research and the training of professionals in the area of developmental disabilities. As a result of these programs, persons with developmental disabilities in Massachusetts have access to state-of-the-art clinical care, highly trained medical professionals, and well established programs to assist in full participation through educational and employment-related activities.

The Developmental Disabilities Assistance and Bill of Rights Act has worked well in Massachusetts—as it has across the country. Amendments to the Act clarify and strengthen several key provisions. Requirements have been added to ensure that racial and ethnic minorities are fully included at all levels and in all activities authorized by the Act. The role of the State Councils has been clarified with regard to responsibilities, personnel, and Council membership—all intended to improve the effectiveness of the Councils.

The bill also adds essential provisions to include school-to-work transition programs for youth with disabilities. This provision is important in assuring that young persons with disabilities have the opportunity to contribute to society and fulfill their goals.

The Developmental Disabilities Assistance and Bill of Rights Act has made vital resources available to States and advocacy agencies working to ensure that this country lives up to its ideals for individuals with developmental disabilities. The results have been dramatic, and reforms at the grass-roots level have assured that developmentally disabled persons and

their families are given real choices and real opportunities for full participation in our society.

I particularly commend the work of Senator HARKIN and the Subcommittee on Disability Policy for their excellent work on this legislation, and I look forward to the passage of this important conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. CONRAD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CONRAD. Mr. President, I ask unanimous consent that the Senate recede from its disagreement to the amendment of the House to the title.

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

PESTICIDE COMPLIANCE DATES EXTENSION ACT

Mr. CONRAD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (S. 1913), a bill to extend certain compliance dates for pesticide safety training and labeling requirements.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1913) entitled "An Act to extend certain compliance dates for pesticide safety training and labeling requirements", do pass with the following amendment:

Strike all after the enacting clause and insert:

SECTION 1. COMPLIANCE.

Until January 1, 1995, it shall not be a misuse under section 12(a)(2)(G) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136j(a)(2)(G)) to use any pesticide product in a manner inconsistent with the provisions of 40 CFR part 170 that are (1) subject to the compliance date specified in 40 CFR section 170.5(c) and (2) incorporated by reference on the label or labeling of any pesticide product. This delay in compliance shall not apply to specific worker protection requirements that appear directly on the label or labeling of the pesticide product.

SEC. 2. REENTRY INTERVAL.

(a) *IN GENERAL*.—Notwithstanding the provisions of 40 CFR part 170, until January 1, 1995, a worker may enter an area treated with a pesticide product during the restricted entry interval specified on the label of the pesticide product to perform tasks related to the production of agricultural plants if the agricultural employer ensures that—

- (1) no hand labor activity is performed;
- (2) no such entry is allowed for the first 4 hours following the end of the application of the pesticide product;
- (3) no such entry is allowed until any inhalation exposure level listed on the product labeling has been reached; and
- (4) the personal protective equipment specified on the product labeling for early entry is provided in clean and operating condition to the worker.

(b) *PROTECTIVE EQUIPMENT FOR IRRIGATION WORK*.—For irrigation work for which the only

contact with treated surfaces is to the feet; lower legs, hands, and arms, the agricultural employer may provide coveralls, chemical resistant gloves, and chemical resistant footwear instead of the personal protective equipment specified on the label.

SEC. 3. CROP ADVISORS.

Notwithstanding the provisions of 40 CFR part 170, until January 1, 1995, persons performing duties as crop advisors shall not be considered workers or handlers under 40 CFR part 170 (or for the purposes of the pesticide label) and shall not be subject to the requirements of 40 CFR part 170.

SEC. 4. SAFETY TRAINING.

(a) *TRAINING MATERIALS*.—Not later than September 23, 1994, the Administrator shall develop and distribute pesticide safety training materials that convey, at a minimum, the information referred in 40 CFR section 170.230(c)(4).

(b) *IMPLEMENTATION*.—The Administrator shall assist the appropriate Federal, State, and tribal agencies in implementing the pesticide safety training programs required under 40 CFR part 170.

SEC. 5. DEFINITIONS.

As used in this Act:

(1) The term "hand labor" means any agricultural activity performed by hand or with hand tools that causes a worker to have substantial contact with surfaces (such as plants, plant parts, or soil) that may contain pesticide residues. These activities include, but are not limited to, harvesting, detasseling, thinning, weeding, topping, planting, sucker removal, pruning, disbudding, roguing, and packing produce into containers in the field. The term "hand labor" shall not include operating, moving, or repairing irrigation or watering equipment or performing the tasks of crop advisors.

(2) The term "agricultural employer" means any person who hires or contracts for the services of workers, for any type of compensation, to perform activities related to the production of agricultural plants, or any person who is an owner of or is responsible for management or condition of an agricultural establishment that uses such workers.

(3) The term "worker" means any person, including a self-employed person, who is employed for any type of compensation and who is performing activities relating to the production of agricultural plants on an agricultural establishment. The term "worker" shall not include any person employed by a commercial pesticide handling establishment to perform tasks as a crop advisor.

(4) The term "Administrator" means the Administrator of the Environmental Protection Agency.

SEC. 6. EFFECTIVE PERIOD.

The provisions in this Act shall be effective until January 1, 1995.

Mr. CONRAD. Mr. President, I move that the Senate concur in the amendments of the House.

The motion was agreed to.

Mr. CONRAD. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, we have known for 10 years that current regulations are doing virtually nothing to protect the men, women, and children who help put food on America's table. There are at least 20,000 and perhaps as many as 300,000 pesticide poisonings each year. The standards we are delaying today provide the most elementary protections against such poisonings. Unfortunately, another growing season