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"Rehabilitation, comprehensive services and developmental disabilities act of 1978," U.S. Congressional Serial Set (1978): 1-120

McGill Guide 9th ed.  
"Rehabilitation, comprehensive services and developmental disabilities act of 1978" [1978] 1.

AGLC 4th ed.  
'Rehabilitation, comprehensive services and developmental disabilities act of 1978' [1978] U.S. Congressional Serial Set 1.

MLA 8th ed.  
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REHABILITATION, COMPREHENSIVE SERVICES AND  
DEVELOPMENTAL DISABILITIES ACT OF 1978

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MAY 15 (legislative day, APRIL 24), 1978.—Ordered to be printed

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Mr. RANDOLPH, from the Committee on Human Resources,  
submitted the following

## REPORT

[To accompany S. 2600]

The Committee on Human Resources, to which was referred the bill (S. 2600) to amend the Rehabilitation Act of 1973 to extend certain programs established in such act and to establish a comprehensive services program for the severely handicapped, to amend the Developmental Disabilities Services and Facilities Construction Act to extend certain programs established in such act, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

## BACKGROUND OF SENATE BILL 2600

During the first session of the 95th Congress, the Subcommittee on the Handicapped held 16 days of hearings on legislation under the subcommittee's jurisdiction. All programs for handicapped individuals were reviewed, including rehabilitation programs for handicapped individuals and programs for the developmentally disabled. Additionally, the subcommittee heard testimony from witnesses on the extension of the Rehabilitation Act and heard further testimony on the Developmental Disabilities Services and Facilities Construction Act.

On February 28, 1978, S. 2600 was introduced, and hearings were held on March 10 and 14. Testimony was heard from a variety of witnesses who were themselves handicapped or who represented the interests of handicapped persons, State agencies, and organizations and who had not previously presented testimony.

The committee amendment is based on the text of S. 2600 and contains modifications thereof which the committee found appropriate based on available information and testimony presented at the hearings.

The subcommittee met in executive session on April 21. On May 10, 1978, the committee met in executive session and unanimously ordered the bill, as amended, reported to the Senate.

## BRIEF SUMMARY OF THE COMMITTEE BILL

### TITLE I OF S. 2600

The provisions of the Rehabilitation Act of 1973 are extended through 1983 by the committee bill.

The committee bill amends title I of the Rehabilitation Act of 1973 as follows: (1) The formula is changed to the extent that any moneys appropriated in excess of the fiscal year 1978 level (\$760 million) will be allotted to the States on the basis of relative population, (2) new programs are established for handicapped American Indians and for handicapped individuals in need of independent living services, (3) the State minimum allotment is increased, (4) a provision has been added to address the problem of States affected adversely by the maintenance of effort requirement, (5) the limitation on the number of client assistant projects that can be established has been deleted, and (6) procedural safeguards are established.

Title II of the Rehabilitation Act is amended by the committee bill (1) to permit eligibility of private, for-profit agencies or organizations as recipients of grants or contracts under the Research authority, (2) to delete the 25 percent set-aside for Rehabilitation Engineering Research Centers, and (3) to clarify that programs of research and training also include the training of rehabilitation personnel other than just rehabilitation research personnel. In addition, the Research and Training Centers are directed to consider psychiatric as well as psychological rehabilitation problems and to conduct research programs concerning the use of existing telecommunications systems and to conduct basic medical and scientific research.

Title II of the Rehabilitation Act is further amended by the committee bill by inclusion of rehabilitation psychiatry as one of the areas of training needs to be addressed and by directing the Secretary to evaluate the impact of training programs, to determine training needs, and to develop a long-term rehabilitation manpower plan designed to target resources on areas of personnel shortage.

Title III is amended by the committee bill to authorize the Secretary to make grants to States and public nonprofit agencies and organizations for the purpose of initiating recreational activities for handicapped individuals.

Title IV of the Rehabilitation Act is amended to specifically provide authority to the Secretary to provide short-term training and instruction, including the establishment and maintenance of fellowships and traineeships, in the area of psychiatric rehabilitation.

The committee bill amends title V of the Rehabilitation Act as follows: (1) the authority and scope of the authority of the Architectural and Transportation Barriers Compliance Board is expanded and the Board is given technical assistance responsibilities, (2) the remedies, procedures and rights set forth in section 717 of the Civil Rights Act of 1964 are made applicable to complaints made under section 501 of the Rehabilitation Act, (3) the remedies, procedures,

and rights contained in title VI of the Civil Rights Act of 1964 are made available to any handicapped individual aggrieved by any act or failure to act by a recipient of Federal assistance or Federal provider of assistance under section 504, (4) reasonable attorney's fees may be allowed at the discretion of the court to the prevailing party in any action or proceeding to enforce a violation of a provision under title V, and (5) an Interagency Coordinating Council is established which will have the responsibility for development, implementation, and enforcement of the title V provisions and the prescribed regulations.

The committee substitute incorporated title II of S. 2600, as introduced, as Section 119 of title I of S. 2600 as reported from committee. Section 119 adds a new title VI to the Rehabilitation Act of 1973 entitled "Comprehensive Services for Severely Handicapped Individuals." This new programmatic thrust has as its objective the development and implementation of comprehensive services to all severely handicapped individuals. Individual eligibility for these services is conditioned on meeting the requirements of the functional definition of severely handicapped individual provided in this title. Additionally, unlike title I, there is no criteria or requirement for vocational potential in order to be eligible for services.

States desiring to participate in the State grant program will be required, among other things, to (1) develop and submit an annual State plan outlining the scope, quality, and extent of the comprehensive services provided, (2) provide individualized written programs for severely handicapped individuals provided comprehensive services by the State, (3) establish State councils for the severely handicapped, and (4) develop, and update annually, a long-range plan concerning the provision of comprehensive services to all severely handicapped individuals residing within the State. A State receiving payments under this title must also set aside 30 percent of its State allotment for the purpose of making grants to local public agencies, private nonprofit organizations, and tribal organizations located on Federal or State reservations for the establishment or operation of centers to provide services for severely handicapped individuals. In addition, there is authority to establish model centers and demonstration programs to provide services to the severely handicapped, including models for training centers, models for services to preschool-aged severely handicapped individuals, and models for community and independent living centers. Research, training, and evaluation programs are also authorized to support activities to help meet the special needs of severely handicapped individuals.

#### TITLE II OF S. 2600

Title II of the committee bill establishes a Federal Council on the Handicapped which is to provide advice and assistance to the President and the Congress on the problems and needs of handicapped and severely handicapped individuals.

#### TITLE III OF S. 2600

Title III provides for a 5-year extension of the Developmental Disabilities Services and Facilities Construction Act with the follow-

ing changes: (1) the definition of "developmentally disabled" is changed from a categorical definition to a functional definition, (2) the percentage of consumers on the State planning councils is changed from one-third to one-half, (3) the Council is directed to "advise regarding, and supervise" the development of the State plan, (4) a study is mandated on the effect of the expanded definition on the availability of services for the developmentally disabled as defined in Public Law 94-103, (5) the National Advisory Council on Developmental Disabilities is abolished, and (6) the title of the act is changed to "Developmentally Disabled Assistance and Bill of Rights Act".

#### TITLE IV OF S. 2600

Title IV establishes (1) a program of reading services for the blind, (2) a program of rehabilitation services to older blind individuals, and (3) centers for the training of interpreters for the deaf and information and referral centers and interpreter referral centers for the deaf.

#### EFFECTIVE DATE OF COMMITTEE BILL

The committee bill is effective on date of enactment.

#### MAJOR PROVISIONS OF S. 2600

#### TITLE I OF S. 2600—AMENDMENTS TO THE REHABILITATION ACT OF 1973.

The provisions of title I of the committee bill fall into five general categories: extension and revision of the State entitlement program and other programs; establishment of new programmatic thrusts in independent living services for individuals with the most severe handicaps and vocational rehabilitation services for American Indians residing on reservations; establishment of procedural safeguards for vocational rehabilitation clients and clarification and expansion of the rights and responsibilities set forth in title V of the Rehabilitation Act; technical and clarifying changes; and establishment of a new Title VI, Comprehensive Services to Severely Handicapped Individuals.

#### AMENDMENTS TO TITLE I—VOCATIONAL REHABILITATION SERVICES

Section 100(b)(1), the State grant program, is amended by the committee bill to extend the authorization of appropriations for 5 years through 1983 with authorization levels of \$813 million for fiscal year 1979, \$880 million for fiscal year 1980, \$945 million for fiscal year 1981, \$1,015 million for fiscal year 1982, and \$1,090 million for fiscal year 1983. Over the last several years, authorization levels have not been increased in sufficient amounts to match the rate of inflation, resulting in a decrease in the number of handicapped individuals served by the vocational rehabilitation program. The authorization levels set forth in the committee bill should allow States not only to maintain their present level of services but also to expand their services and to serve more handicapped individuals.

## STATE ALLOCATIONS

Section 110 of the Rehabilitation Act is amended so that moneys appropriated in excess of the fiscal year 1978 amount (\$760 million) are allocated to the States based on relative population; however, \$760 million will continue to be allocated on the basis of the current formula.

In addition, section 110 has been amended so as to increase the minimum allotments for States from one-fourth of 1 percent, or \$2 million, of the amount appropriated under section 100(b)(1) to one-third of 1 percent, or \$3 million, whichever is greater. The committee bill also amends section 110(b) so that there is authority for a separate appropriation in order to provide certain States with sufficient Federal funds to pay 80 percent of the costs of the vocational rehabilitation program. These States, because of their high level of expenditures in fiscal year 1972 and because the Rehabilitation Act of 1973 requires that States continue their fiscal year 1972 level of support, have been mandated to continue that level of State funding in spite of the lack of sufficient Federal funding to meet the 80 percent Federal share.

## STATE ALLOTMENT FORMULA FOR BASIC VOCATIONAL REHABILITATION SERVICES

For some time, the committee has been concerned with the equity of the State Allocation Formula for basic services under part B of the Vocational Rehabilitation Act. The current formula has been extant in the vocational rehabilitation program since 1954, when it was adopted from the Hill-Burton Hospital Survey and Construction Act. This formula is based on relative State population multiplied by the inverse of State per capita income relative to national per capita income. The per capita income factor is squared, thereby giving even greater weight to the per capita income element.

When the Hill-Burton formula was introduced into this program in 1954, it served as a means to stimulate the growth of vocational rehabilitation activity in States where progress had only slowly materialized—specifically, the low per capita income States. Since the introduction of this formula for “startup” allocations in 1954, major changes of both an economic and programmatic nature have occurred which, the committee finds, necessitate a change in this formula:

First, the difference in ability to pay between low and high per capita income States is not nearly so great now as it was in 1954. Higher taxation and cost of living, and massive public debts due to the provision of essential social services in the higher per capita income States have eroded a once-substantial gap among States in relative ability to pay for vocational rehabilitation and other social services.

Second, the use of this formula to encourage States to provide rehabilitation services began in 1954 when the Federal share for the vocational rehabilitation program was only \$21.8 million. The fiscal year 1978 appropriation for this program is \$760 million, a Federal commitment 34 times larger than in 1954. The need for the Federal Government to encourage startup of basic rehabilitation services no longer is a valid basis for allotting funds among the States.

As Federal appropriations for the vocational rehabilitation program have increased since 1954, the effect of the formula has been to increase the disparity of funding among the States. By fiscal year 1973, for example, the 25 States receiving the lowest per capita allotments for vocational rehabilitation services contained virtually 75 percent of the Nation's population. The committee does not believe that this perpetually increasing disparity was the intent of Congress in its authorization of the formula in 1954, or in subsequent reauthorization.

Third, the committee finds that per capita income is, at best, an imprecise measurement of a State's relative ability to pay for vocational rehabilitation services, and is weighted in current law so heavily as to discriminate against the majority of handicapped persons who live in higher per capita income States.

Fourth, administrators of State vocational rehabilitation programs have indicated to the committee that annual fluctuations in per capita income within and among States make State planning for anticipated Federal funds in this program most difficult. Population trends tend to be more stable than those of per capita income, and some administrators have indicated a preference for greater stability of funding based upon the population factor, which will assist States in short- and middle-term program planning.

Title I of the Rehabilitation Act of 1973, while temporarily continuing the existing formula, simultaneously authorized the Secretary of Health, Education, and Welfare to conduct a thorough study of the allotment of funds among the States for grants for rehabilitation services authorized under part B of title I of this act, including a consideration of:

First, the needs of individuals requiring vocational rehabilitation services;

Second, the financial capability of the States to furnish vocational rehabilitation assistance including, on a State-by-State basis, per capita income, capita cost of services rendered, State tax rates, and the ability and willingness of a State to provide the non-Federal share of the costs of rendering such services;

Third, the continuing demand upon the States to furnish vocational rehabilitation services together with a consideration of the factor that no State would receive less Federal financial assistance under such part than it received under section 2 of the Vocational Rehabilitation Act in the fiscal year immediately prior to the enactment of the 1973 act.

HEW's study, prepared by JWK International Corp. and completed in 1974, found that the best general measure of an allocation's equity is the extent to which the allocation matches the relative size of the population of citizens to be rehabilitated. The current Hill-Burton allocation formula "deviates significantly" from this "equity index," according to the study, and "introduces substantial inequities in allocating funds to States."

The committee bill provides that the existing formula is utilized to determine State allotments in appropriations to the fiscal year 1978 level of \$760 million. Accordingly, the first \$760 million in appropriations will be distributed on the basis of the Hill-Burton formula. Appropriations above this level will be distributed on the basis of relative

population among the States. This will ensure that all States will receive increasing annual allotments until the expiration of the committee bill in fiscal year 1983.

Thus, the committee bill provides that the Hill-Burton formula in present law will remain in effect each year for the first \$760 million of appropriations. Only new funds appropriated above that amount will be distributed on a proportional population basis. Those States with per capita incomes below the national average will continue to receive a far greater distribution per capita than States with per capita incomes above the national average.

The principal objective of the Federal vocational rehabilitation program is to make services available to eligible individuals. The committee intends that access to services be equitable regardless of a handicapped individual's State of residence, and believes that the formula revision included in the committee bill will increase such equity.

The committee has carefully considered the concerns expressed that any formula change (a) not reduce any State's allotment, and (b) assure continued program growth in all States. The committee believes both of these concerns have been fully met.

The committee understands that in applying a relative population distribution only to moneys appropriated above the current level (\$760 million), that no substantial change in the relative disparities among the States in per capita allotment will occur. However, every State will not only be assured its share under the current formula to \$760 million in Federal appropriations, but every State will be assured an additional allotment each year based upon relative population of any Federal dollars appropriated above fiscal year 1978 levels.

The following chart, in \$40 million increments, based upon an additional \$200 million Federal share, shows the effect of the committee amendment on the continuing per capita differences among the States.<sup>1</sup>

This chart demonstrates the relationship among States with respect to per capita allotments. The figures are hypothetical and do not represent the authorizations in the committee bill.

APPROXIMATE ALLOCATIONS (DOLLARS PER PERSON) UNDER FORMULA IN S. 2600

Fiscal year 1978 plus \$40,000,000; \$760,000,000 in current formula; \$40,000,000 in population formula.  
 Fiscal year 1978 plus \$80,000,000; \$760,000,000 in current formula; \$80,000,000 in population formula.  
 Fiscal year 1978 plus \$120,000,000; \$760,000,000 in current formula; \$120,000,000 in population formula.  
 Fiscal year 1978 plus \$160,000,000; \$760,000,000 in current formula; \$160,000,000 in population formula.  
 Fiscal year 1978 plus \$200,000,000; \$760,000,000 in current formula; \$200,000,000 in population formula.  
 Assumptions: All appropriations are reduced by a constant percentage for grants to territories other than Puerto Rico.  
 Hold harmless: Fiscal year 1978 allocation.  
 Minimum: \$3,000,000.  
 Warning: All estimates based on 1973-1975 per capita income and 1976 population data.

State	Fiscal year 1978	Fiscal year 1978 plus \$40,000,000	Fiscal year 1978 plus \$80,000,000	Fiscal year 1978 plus \$120,000,000	Fiscal year 1978 plus \$160,000,000	Fiscal year 1978 plus \$200,000,000
1. Alabama	4.94	5.12	5.31	5.50	5.69	5.87
2. Alaska	5.24	7.85	7.85	7.85	7.85	7.85
4. Arizona	3.76	3.96	4.15	4.34	4.52	4.71
5. Arkansas	4.97	5.06	5.25	5.44	5.63	5.81
6. California	2.65	2.84	3.02	3.21	3.39	3.58
8. Colorado	3.21	3.41	3.60	3.78	3.97	4.15
9. Connecticut	2.25	2.42	2.60	2.79	2.97	3.16
10. Delaware	3.44	5.15	5.15	5.15	5.15	5.15
11. District of Columbia	7.73	7.73	7.85	8.04	8.23	8.42
12. Florida	3.46	3.62	3.81	3.99	4.18	4.36
13. Georgia	4.25	4.41	4.60	4.79	4.97	5.16
15. Hawaii	2.61	3.38	3.38	3.38	3.38	3.56
16. Idaho	4.03	4.20	4.39	4.58	4.77	4.95
17. Illinois	2.45	2.61	2.80	2.98	3.17	3.35

## APPROXIMATE ALLOCATIONS (DOLLARS PER PERSON) UNDER FORMULA IN S. 2600—Continued

State	Fiscal year 1978	Fiscal year 1978 plus \$40,000,000	Fiscal year 1978 plus \$80,000,000	Fiscal year 1978 plus \$120,000,000	Fiscal year 1978 plus \$160,000,000	Fiscal year 1978 plus \$200,000,000
18. Indiana	3.60	3.72	3.91	4.09	4.28	4.47
19. Iowa	3.15	3.29	3.47	3.66	3.84	4.03
20. Kansas	3.12	3.31	3.50	3.69	3.87	4.06
21. Kentucky	4.64	4.80	4.99	5.18	5.37	5.55
22. Louisiana	4.71	4.88	5.07	5.26	5.45	5.63
23. Maine	4.64	4.80	4.99	5.18	5.37	5.56
24. Maryland	2.76	2.94	3.12	3.31	3.49	3.68
25. Massachusetts	3.14	3.26	3.45	3.63	3.82	4.01
26. Michigan	2.95	3.08	3.26	3.45	3.63	3.82
27. Minnesota	3.36	3.52	3.71	3.90	4.08	4.27
28. Mississippi	5.69	5.81	6.00	6.19	6.38	6.57
29. Missouri	3.81	3.95	4.14	4.32	4.51	4.70
30. Montana	3.83	3.99	4.17	4.36	4.55	4.73
31. Nebraska	3.24	3.39	3.58	3.76	3.95	4.14
32. Nevada	3.28	4.92	4.92	4.92	4.92	4.92
33. New Hampshire	3.99	4.14	4.33	4.51	4.70	4.89
34. New Jersey	2.50	2.66	2.84	3.03	3.21	3.40
35. New Mexico	4.84	5.04	5.22	5.41	5.60	5.79
36. New York	2.64	2.78	2.96	3.15	3.33	3.52
37. North Carolina	4.47	4.61	4.79	4.98	5.17	5.36
38. North Dakota	3.84	4.67	4.67	4.67	4.67	4.67
39. Ohio	3.43	3.54	3.72	3.91	4.10	4.28
40. Oklahoma	4.17	4.37	4.56	4.75	4.94	5.12
41. Oregon	3.48	3.68	3.86	4.05	4.24	4.42
42. Pennsylvania	3.37	3.51	3.70	3.88	4.07	4.26
43. Puerto Rico	7.58	7.65	7.85	8.04	8.23	8.42
44. Rhode Island	3.52	3.65	3.84	4.03	4.21	4.40
45. South Carolina	4.88	5.05	5.24	5.42	5.61	5.80
46. South Dakota	4.08	4.37	4.41	4.60	4.79	4.97
47. Tennessee	4.57	4.72	4.90	5.09	5.28	5.47
48. Texas	3.74	3.95	4.14	4.32	4.51	4.70
49. Utah	4.53	4.73	4.91	5.10	5.29	5.48
50. Vermont	4.46	6.30	6.30	6.30	6.30	6.30
51. Virginia	3.48	3.65	3.84	4.03	4.21	4.40
53. Washington	3.07	3.26	3.45	3.64	3.82	4.01
54. West Virginia	4.69	4.85	5.04	5.23	5.42	5.60
55. Wisconsin	3.64	3.77	3.96	4.15	4.33	4.52
56. Wyoming	5.13	7.69	7.69	7.69	7.69	7.69
National average	3.48	3.67	3.85	4.03	4.21	4.40

## INNOVATION AND EXPANSION GRANTS

Section 100(b)(2), Innovation and Expansion, has been extended and amended to authorize \$50 million for fiscal year 1979, \$60 million for fiscal year 1980, and \$70 million for fiscal years 1981, 1982, and 1983. Additionally, the committee bill directs that 25 percent of the sums appropriated for fiscal year 1979 and 30 percent of the funds appropriated for fiscal year 1980 and each of the fiscal years through 1983 are to be available for independent living services. The authorization increases in this program are directly related to the committee's belief that independent living services are vitally important in assisting severely handicapped individuals to function in society and to prepare for appropriate employment.

## CLIENT ASSISTANCE

The client assistance program authorized by section 112 of the act was initiated in order to establish no less than 7 and no more than 20 client assistance pilot projects to provide counselors to assist vocational rehabilitation clients in obtaining information about available benefits under the Rehabilitation Act and to maximize the client's capacity for benefitting from the services provided under the Rehabilitation Act. Since the program was established in 1973, 19 projects have been established and have demonstrated that there are a variety

of methods to use in appropriately representing an individual client's wishes or needs. In recognition of the contributions these projects can make, the committee bill has deleted the limitation on the number of client assistant projects that can be initiated under this section.

### PROCEDURAL SAFEGUARDS

The committee bill amends part A of title I of the Rehabilitation Act by establishing procedural safeguards designed to provide a formal process to protect the rights of the vocational rehabilitation client participating in the program. This new provision establishes the following client rights: (1) access to records respecting the development and implementation of an individualized written rehabilitation program, (2) written prior notice whenever a providing agency refuses to initiate, change, develop or implement the individualized written rehabilitation plan under section 102 of the act, (3) an opportunity to present complaints with reference to any matter regarding the individualized written rehabilitation program, (4) and the right to an impartial due process hearing. The committee anticipates that in most instances, difficulties can be resolved informally; however, if this is not the case, the client has the right to an impartial due process hearing to be conducted by the State agency. If the matter is not satisfactorily resolved in the impartial due process hearing, the committee bill provides that any party may appeal the decision to an arbitration panel. Further appeal may be made to any State court of competent jurisdiction or to a district court of the United States.

The committee emphasizes that the client has no right to sue the vocational rehabilitation agency or counselor for monetary damages.

It should be clearly understood that the committee's intent is that this provision applies only to the handicapped individual who is an accepted vocational rehabilitation client and is participating in a program. The procedural safeguards do not apply to an applicant to the vocational rehabilitation program. It should also be noted that this provision is similar in function to the due process provisions in the Education for All Handicapped Children Act of 1975, Public Law 94-142. The design of the new system is different to accommodate for the differences between the rehabilitation system and the education system on the State level.

As in the case with the Education for All Handicapped Children Act, the committee felt that decisions made by the vocational rehabilitation agency are significant and of lifelong impact to the handicapped individual so that the handicapped individual's rights should be protected by establishing a formal process to protect the client.

A person receiving services from the vocational rehabilitation agency has been and is subject to the professionalism and concern (or lack thereof) of that agency. The handicapped individual (or his parents or guardian) is often more aware of his needs and abilities than a vocational rehabilitation counselor or other agency representative. While it is certainly appropriate for program representatives to provide guidance to handicapped individuals, it is inappropriate for such representatives to make decisions that affect the lives of handicapped individuals without taking into account their needs and abilities. These safeguards will provide handicapped individuals with an

opportunity to challenge or to change their individualized written rehabilitation program when it does not meet their needs or take into account their abilities.

The committee views the procedural safeguards program as supportive of the vocational rehabilitation system's desire to better serve their clients.

## AMENDMENTS TO TITLE II—RESEARCH AND TRAINING

### RESEARCH

The committee bill extends the authorization in section 201(a) (1) (Research) as follows: \$40 million for fiscal year 1979, \$46 million for fiscal year 1980, \$53 million for fiscal year 1981, \$60 million for fiscal year 1982, and \$69 million for fiscal year 1983. The committee bill further amends the research authority by deletion of the set-aside of 25 percent for rehabilitation engineering centers since this set-aside is no longer necessary in light of increased funding resources.

In addition, the committee bill amends section 202(a) to permit the eligibility of private, profitmaking agencies or organizations as recipients for grants or contracts under this section since the Rehabilitation Services Administration has been unable to avail itself of the expertise and ingenuity of the private for-profit sector. The committee charges the Department of Health, Education, and Welfare and the Commissioner of Rehabilitation Services Administration with the responsibility to insure that funds granted or contracted under this amendment are used for the benefit of handicapped individuals and that patents and development rights remain with the public. The committee bill further amends section 202 to clarify that research activities may include basic medical and scientific research and that training activities are also to include rehabilitation personnel other than just rehabilitation research personnel. In addition the centers are directed to consider psychiatric as well as psychological rehabilitation problems and to conduct research programs concerning the use of existing telecommunications systems.

### TRAINING

Section 201(a) (2), the training authority, is extended with the following authorization levels: \$35 million for fiscal year 1979, \$40 million for fiscal year 1980, \$46 million for fiscal year 1981, \$52 million for fiscal year 1982 and \$60 million for fiscal year 1983.

The committee bill further amends the training authority by directing the Secretary to evaluate the impact of training programs, to determine training needs, and to develop a long-term rehabilitation manpower plan designed to target resources on areas of personnel shortage. The committee feels that such planning activities are necessary to the development of well-trained and well-balanced personnel resources.

Additional discussion of amendments to the training authority made by title IV of S. 2600 may be found in the section entitled "Programs for the Deaf and Hearing Impaired."

## INTERNATIONAL ACTIVITIES

The committee continues to consider the international activities a priority. The Rehabilitation Services Administration has developed an outstanding record with the use of Public Law 480 funds. Over 100,000 individuals in the United States have profited from the Polish immediate postoperative fitting of prostheses developed by Dr. Marion Weiss. The use of graduated exercise in the rehabilitation of persons with myocardial infarction, initiated in Israel, is becoming standard practice in the United States. The closely integrated programs of transition from school to work for retarded youngsters with emotional problems, conducted by Dr. Hommossani, in Egypt, is being copied by United States-side educators and rehabilitation specialists. The peroneal brace, developed in Yugoslavia, is widely used here. It is obvious that the United States has much to gain through collaboration with developing and developed countries—we do not have a monopoly on rehabilitation expertise. The committee expects the Rehabilitation Services Administration to continue and expand its international programs so that we may profit from overseas exemplary practices and research.

## AMENDMENTS TO TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

The committee bill extends the “such sums” authorization for title III for 5 years through fiscal year 1983.

## RECREATION PROGRAMS FOR HANDICAPPED INDIVIDUALS

In recognition of the recreational and social needs of handicapped individuals, the committee bill amends section 304 to authorize the Secretary to make grants to States and public nonprofit agencies and organizations for the purpose of initiating recreational programs for handicapped individuals.

Recreation programs for handicapped individuals are greatly needed in order to assist them in developing their capacity for mobility and socialization. Unfortunately, existing programing for this purpose is limited; therefore, it is the committee's intent that this authority stimulate the development of and utilization of more community-based recreation programs.

It is the committee's intent that handicapped individuals participate in existing regularly scheduled recreation programs to the maximum extent feasible; the committee realizes, however, that the specialized needs of handicapped individuals may necessitate adaptive equipment and programing and specially trained personnel. The committee, therefore, expects that such adaptive equipment and programing as well as specialized personnel attuned to the needs of handicapped persons will be an integral part of any recreation program initiated under this authority. It is further expected that such recreation programs should be coordinated with other recreational activities offered in the community.

With respect to scouting and 4-H programs, the committee does not intend for grants to be made available for programs on the national level, but funds may be made available to assist in the development of

a total recreational program for handicapped individuals in the community.

The committee further intends for recreation programs for school-aged children to be scheduled after the school day has ended.

Discussion of amendments made to this title by title IV of S. 2600 may be found in the section entitled "Programs for the Deaf and Hearing Impaired."

#### AMENDMENTS TO TITLE IV OF THE REHABILITATION ACT OF 1973— ADMINISTRATION AND PROGRAM AND POLICY EVALUATION

The committee bill extends the authorization for appropriations at existing levels for 5 years through 1983 and amends section 400 to specifically provide authority to the Secretary to provide short-term training and instruction, including the establishment and maintenance of fellowships and traineeships, in the area of psychiatric rehabilitation.

#### AMENDMENTS TO TITLE V OF THE REHABILITATION ACT OF 1973— MISCELLANEOUS

Title I of the committee bill extends the authorization of appropriations for section 502 in the amount of \$3,500,000 for 5 years through fiscal year 1983. Additional discussion of the amendments made to title V may be found in the section entitled "Program Improvements."

### NEW PROGRAM INITIATIVES

#### INDEPENDENT LIVING

During the 18 hearings held in the 95th Congress, witness after witness stressed the need for the Federal Government to take a strong role in the initiation and development of independent living services. The committee feels that development of independent living services as a component of a State's vocational rehabilitation program can substantially assist individuals with the most severe handicaps in the achievement and maintenance of life activities such as self-care, communication, learning, mobility, and any other life activities necessary to enhance their ability to function in society and the community and to prepare for appropriate employment.

The committee notes that an independent living project in Houston, Tex., demonstrated the value of such services. Some 40 individuals with the most severe handicaps participated in this program and experienced positive changes in their lives as a result of the program. Before admission to the program, only 1 individual was employed; at the end of the reporting period, 14 individuals were employed full time and 4 individuals were employed part time. Before admission to the program, 21 persons or 53 percent of the population, had an income of less than \$100 monthly. In January of 1977, however, only two persons had incomes of less than \$100 per month. The mean income at entrance was \$122.59 monthly, which increased to \$496.91 monthly by January of 1977. The committee cites this example to demonstrate how independent living services can benefit an individ-

ual with a most severe handicap, but expects that other models of independent living services would offer similar advantages to such individuals. The committee realizes that the needs of individuals with the most severe handicaps differ and expects services to be designed to accommodate the variety of services needs that such individuals may have.

The committee notes that a goal of the independent living services offered under this program is "appropriate employment" as distinguished from the goal of "gainful employment" as set forth in the declaration of purpose for this act. The committee stresses that "appropriate employment" is to be interpreted to mean employment appropriate to the needs and abilities of the individual with the most severe handicaps served under this program.

A set-aside of 25 percent for fiscal year 1979 and 30 percent for fiscal years 1980 through 1983 of the sums appropriated pursuant to the authority contained in section 100(b)(2) is to be made available for independent living services. In addition the committee bill amends section 121(b) by permitting the funding of projects for 5 years, rather than just 3 years. The committee made this change so that independent living services initiated under the innovation and expansion authority would not be abruptly terminated at the end of the 3-year period. The committee felt that the independent living services would have more impact on the lives of individuals with the most severe handicaps if longer-term availability of services could be assured.

#### AMERICAN INDIAN VOCATIONAL REHABILITATION GRANTS

Testimony presented during the hearings indicated that the vocational rehabilitation needs of American Indians on Federal and State reservations are not being met. According to representatives of the Blackfeet Tribe,

The percentage of physically and mentally handicapped persons on Indian reservations is extremely high, caused by the multiple problems of harsh living conditions, poverty, inadequate health services, and poor housing. The State has been reluctant to provide adequate funds or services to us from the moneys it gets through the Vocational Rehabilitation Act. We have estimated the State has spent less than \$3,000 per year in services to handicapped members of the Blackfeet Tribe.

The Sisseton-Wahpeton Sioux Tribe noted in its testimony that there "are no State vocational rehabilitation offices on the reservation. The nearest office available to our people is sixty (60) miles away . . ." The Navajo Nation, in its presentation, pointed out that reservations located in more than one State (the Navajo Nation spans three States and is located in three Federal regions) face extreme difficulties because of the problems encountered in coordinating services when more than one State has responsibility for providing services.

Although there is a provision in the Rehabilitation Act that allows a "local agency" (a unit of general local government or an Indian tribal organization) to contract with the State to conduct a vocational

rehabilitation program under the supervision of the State, this mechanism has proved to be an inadequate means of addressing the problems experienced by reservation-based Indians, particularly those located on reservations spanning more than one State. The committee bill therefore contains a provision (part D of title I of the Rehabilitation Act of 1973) which authorizes the appropriation of an amount equal to 1 percent of the amount appropriated under the State grant program for an American Indian vocational rehabilitation program. The Commissioner is authorized to make grants to tribal organizations of Indian tribes located on Federal and State reservations to pay 90 percent of the costs of vocational rehabilitation services for handicapped American Indians residing on the reservations. In order to assure that States affected by the approval of an application by a tribal organization under this provision do not face a sudden decrease in funding, States will be permitted, over a 3-year period, to phase out inclusion of the Indian population in the State's population as set forth in section 110(a)(1).

The committee does expect, however, that States are to continue to provide vocational rehabilitation services to handicapped American Indians residing on reservations with tribal organizations whose applications have been approved under the new part D on the same basis as services are provided to other significant segments of the population of handicapped individuals in the State as long as that State continues to count any such Indians in its population for purposes of computing its State allotment. The continuation of services by the State should provide the tribe with an opportunity to build its resources and develop its services prior to having total responsibility for provision of vocational rehabilitation services to handicapped Indians residing on the reservation. Further, the committee expects the tribal organization to develop its application in consultation with the appropriate State agency or agencies so that it may benefit from the State's experience in planning and operating vocational rehabilitation services and to prevent the duplication of services.

The committee also expects the vocational rehabilitation services provided by the tribal organization to be comparable to such services provided under the Rehabilitation Act to other handicapped individuals residing in the State, but the committee does not intend for this requirement to restrict the tribe's freedom to develop innovative approaches to meet the unique needs of Indians or to restrict their right to define priorities in service delivery.

The committee also expects the Rehabilitation Services Administration to provide the necessary technical assistance to tribes applying for a grant under this provision.

It is also the feeling of the committee that the Rehabilitation Services Administration, in developing regulations to implement this provision, should consult with Indian tribes and organizations and other interested individuals and organizations.

The committee also directs the Secretary to conduct an evaluation of this program conducted under part D, specifically with reference to the comparability of services provided to Indians under part D to those provided to other handicapped individuals served by the States and with reference to the extent to which services under part D have

been made available to all handicapped American Indians residing on the reservations.

The committee realizes that not all tribal organizations will find it appropriate to provide vocational rehabilitation services and may wish to continue to rely on services provided by the States. To reinforce the committee's intent that handicapped American Indians are to be provided appropriate vocational rehabilitation services, the committee bill amends section 101(a) (State Plans) to require assurance by the State that, except as otherwise provided in part D, the State shall provide vocational rehabilitation services to handicapped American Indians to the same extent as it provides services to other significant segments of the population of handicapped individuals in the State.

#### TELECOMMUNICATIONS

The committee bill amends section 103 of the Rehabilitation Act (Scope of Vocational Rehabilitation Services) by inclusion of the use of telecommunication systems and section 202 of the Rehabilitation Act (research) to direct the research and training centers to conduct research programs concerning the use of existing telecommunication systems. The committee has noted that there is a vital need for telecommunications in the delivery of rehabilitation services and in program management. The transfer of scientific knowledge into day-by-day practice with handicapped individuals, which allows them to learn through teletraining activities, to communicate more effectively through telecommunications, to work through telework activities and to enjoy recreational activities through telerecreational activities is essential to their well-being. A wide range of teleeducational programs can be developed which allow the learner to work with interactive television and/or computer in order to become rehabilitated. Telework experiences and opportunities allow handicapped individuals a much wider range of employment than traditional work opportunities. Telework opens new career opportunities in the rapidly growing electronic and information gathering fields. The ability to communicate through telecommunication networks opens new means for handicapped and nonhandicapped individuals to work together for a higher level of achievement. Today, there are opportunities for telerecreational activities which tie people together in computer games and conversations. This new level of communication gives people a wide range of alternative interactive experiences that were not present before. Rehabilitation services should demonstrate the effectiveness of these various telecommunications opportunities and explore through research new uses of telecommunications for learning, work, communication, and recreation.

#### TECHNICAL AND CLARIFYING AMENDMENTS TO TITLES I-V OF THE REHABILITATION ACT OF 1973

The committee bill contains a number of technical and clarifying amendments to section 2, section 7 and section 103 (Scope of Vocational Rehabilitation Services) of the Rehabilitation Act of 1973 to insure that the psychiatric needs of vocational rehabilitation clients are met and to insure appropriate use of rehabilitation facilities. In addi-

tion the committee bill amends section 100(b)(2) by deletion of the set-aside for the comprehensive service needs since this study has been completed.

In addition, section 101, State plans, is amended to include a requirement that the plan contain provisions relating to the establishment and maintenance of minimum standards to assure the availability of personnel trained to communicate in the client's native language or mode of communication and provisions for entering into cooperative arrangements for the coordination of services to individuals eligible for services under the Rehabilitation Act, the Education of the Handicapped Act and the Vocational Education Act and other laws and programs relating to handicapped individuals. The committee feels that such cooperative arrangements will benefit the handicapped individuals served under such programs.

### PROGRAM IMPROVEMENTS

#### ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

The committee bill amends section 502 of the Rehabilitation Act of 1973 to strengthen the role of the Architectural and Transportation Barriers Compliance Board with respect to the enforcement of the Architectural Barriers Act of 1968, as amended.

The committee amendment to section 502 of the Rehabilitation Act of 1973, Architectural and Transportation Barriers Compliance Board, adds the U.S. Postal Service and six public members to the Board and provides the Board with authority to provide technical assistance to public and private agencies and institutions for the removal of architectural and transportation barriers to accessibility for handicapped individuals. The six public members, five of whom must be handicapped, will be appointed by the President for terms of 3 years, which are staggered to prevent a complete turnover in the public members at any one time. The committee also felt that the public members should not be reappointed concurrently so that more members of the general public could, in time, be placed on the Board.

The committee amendment establishes a voting procedure for the Board that would give the public members a majority if they voted as a block. The procedure establishes that each public member shall have one vote and each agency representative shall have one-half of one vote. The design of this voting procedure allows the public members to have a majority on the Board but it allows the creation of a smaller Board that can operate more efficiently to remove architectural and transportation barriers.

The committee move to involve handicapped consumers on the Board is a reflection that architectural and transportation barriers affect a small group of our population in a very significant way. It is those individuals who are most adversely affected by the barriers which inhibit their mobility in this society. While a 3- to 6-inch step is no barrier to the vast majority of the population of the United States, it is an insurmountable barrier to someone in a wheelchair. The reality of barriers may only be a passing thing to the able bodied individual, but it is a constant concern and frustration to the handicapped individual. By placing handicapped individuals on the Board in a decisionmaking role, it is the committee's hope that the Board

will approach the matter of removal in a realistic manner without delay.

The committee also added a representative of the U.S. Postal Service to the agency members of the Board in hopes that this action will create a more cooperative attitude on the part of the U.S. Postal Service in dealing with the Board on compliance matters. To clear up any misunderstanding of the law, the committee has added language to section 502(b)(1) to specifically include the U.S. Postal Service. The committee takes this action despite the fact that it clearly feels that 39 U.S.C. 410(b)(8) already required the U.S. Postal Service to comply with the compliance orders issued by the Board.

The committee amendment to section 502 of the act authorizes the Board to develop and provide technical assistance to any public or private activity, person, or entity with respect to the removal of architectural and transportation barriers which impede the mobility of the handicapped individual. The committee felt that the expertise of the Board in the area of architectural and transportation barriers should be made available to those in the general public wishing to create a barrier free environment by either renovation or new construction. An important function in achieving the desired goals of section 504 of the Rehabilitation Act of 1973 is the creation of a barrier free environment for the handicapped members of our society. It should be noted that the committee, in authorizing this technical assistance capability for the Board, realizes that the Board's expertise lies only in the area of physical barriers to accessibility and it is this expertise that the committee wishes provided under this authority. It should be further noted that nothing in this section should be construed to mean that the Board can develop and provide technical assistance with regard to nonstructural methods of removing barriers which limit a handicapped person's access to programs. Nonstructural methods of removing or eliminating barriers include the reassignment of classes or other services to accessible buildings; assignment of aides; home visits; delivery of health, welfare, and other such services at alternate accessible sites; and other such methods short of physical alteration that are permitted in order to achieve program accessibility under section 504 regulations.

The Board shall coordinate its technical assistance activities on section 504 related architectural and transportation issues with the Office of Civil Rights.

It should also be noted that the committee intends that the technical capability of the Board should be developed on a regional basis and with the view that its agents should be out in the field assisting (getting their hands dirty) in the compliance with architectural and transportation accessibility.

The committee wants to emphasize the legislative language that requires the Board to keep separate its technical assistance function and the compliance function which is its main responsibility under the law. The technical assistance function is to use the expertise of the Board to remove barriers and support the compliance function. The Board must not let up on its compliance function because only with strict enforcement can a barrier free environment be achieved.

## NONDISCRIMINATION PROGRAM PROVISIONS

Section 118 of the committee bill amends title V of the Rehabilitation Act of 1973 by adding two new sections designed to enhance the ability of handicapped individuals to assure compliance with the civil rights provisions of title V and to facilitate the coordination among Federal departments and agencies with respect to the implementation and enforcement of title V and the regulations promulgated thereunder.

## REMEDIES AND ATTORNEY'S FEES

Subsection (a) (1) of section 505 applies the remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 with respect to any complaint under section 501 (Employment of Handicapped Individuals) to any employee or applicant for employment aggrieved by the final disposition of a complaint or by the failure to take final action on a complaint.

Section 501 was intended to provide a focal point for the hiring, placement, and advancement of handicapped individuals in the Federal Government.

The committee, in the report to accompany S. 1875 (S. Rept. 93-318) found:

Hearings in the 92nd Congress on vocational rehabilitation pointed out that despite the Civil Service Commission's experience and actions in this area, Federal employment policies with regard to handicapped individuals continued to be found wanting. The committee emphasizes that the Federal Government must be an equal opportunity employer, and that this equal opportunity must apply fully to handicapped individuals. The committee, therefore, expects the CSC to ensure that there is no discrimination in employment for handicapped individuals within the Federal Government, and to take all necessary steps to ensure that the special needs of handicapped individuals are met.

Section 501 requires all departments, agencies, and instrumentalities of the executive branch of the Federal Government to submit to the Civil Service Commission annual affirmative action program plans for the hiring, placement, and advancement of handicapped individuals within that agency, department, or instrumentality.

In testimony before the Subcommittee on the Handicapped, Deborah Kaplan of the Disability Rights Center noted that she had been examining the implementation of section 501 and recommended that legislative changes be made to "make it stronger and easier to enforce and to provide the same civil rights protection to the disabled that other minorities have in employment with the Federal Government." Ms. Kaplan's group discovered that in the first 2 years after enactment of section 501 "only 12 Federal agencies have increased their rate of hiring disabled employees by more than 3 percent."

The committee believes now as it did in 1973 that the Federal Government must be "an equal opportunity employer." The amendment to section 501 will aid in attaining that goal by providing for individuals aggrieved on the basis of their handicap the same rights, pro-

cedures, and remedies provided individuals aggrieved on the basis of race, creed, color, or national origin.

In addition, application of title VII will make available "back pay" as a remedy for a handicapped individual when he or she is the prevailing party. A recent Supreme Court decision provided that back pay will not be provided as a remedy by the Federal Government unless specifically allowed by Federal statute (*United States v. Testan*, 424 U.S. 392 (1976)). Further, application of the title VII provisions makes specific the right to bring a private right of action with respect to section 501, subject, of course, to the provision for exhaustion of administrative remedies and other rules and procedures set forth in title VII.

Subsection (a) (2) of the new section makes available the remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 to any person aggrieved by any act or failure to act by any recipient of Federal assistance or any Federal provider of Federal assistance under section 504 of the Rehabilitation Act of 1973.

It is the committee's understanding that the regulations promulgated by the Department of Health, Education, and Welfare with respect to procedures, remedies, and rights under section 504 conform with those promulgated under title VI. Thus, this amendment codifies existing practice as a specific statutory requirement.

The joint explanatory statement accompanying the conference report on H.R. 14225 (the Rehabilitation Act Amendments of 1974) stressed this parallel relationship between section 504 and title VI of the Civil Rights Act of 1964, and noted that application of the provisions relating to discrimination on the basis of race, creed, color, or national origin would assure administrative due process, and provide for administrative consistency within the Federal Government.

Subsection (b) of section 505 provides for the allowance by a court, in its discretion, of reasonable attorney's fees as part of costs to the prevailing party, other than the United States. The committee believes that the rights extended to handicapped individuals under title V that is, Federal Government employment, physical accessibility in public buildings, employment under Federal contracts, and nondiscrimination under Federal grants—are, and will remain, in need of constant vigilance by handicapped individuals to assure compliance, and the availability of attorney's fees should assist in vindicating private rights of action in the case of section 502 and 503 cases, as well as those arising under section 501 and 504.

Deborah Kaplan further testified as follows with respect to attorney's fees:

Unfortunately, the disabled citizens who are protected by section 501 as well as section 504 stand alone among minority groups in this country, since they remain largely unaffected by the recently enacted Civil Rights Attorney's Fees Awards Act of 1976, Public Law 94-559, and because the legislation which protects their civil rights contains no attorney's fees provision. Thus many disabled people, who desperately need to vindicate their rights through the courts, have been utterly frustrated and disillusioned because they could neither afford an attorney, locate one able to represent them without a fee, nor seek an attorney's fee award from the courts.

Ms. Kaplan cited two lawsuits (one concluded successfully and the other pending) brought by handicapped individuals with respect to section 501 and noted:

Attorney's fees in each of the above-mentioned cases were borne totally by either the disabled complainant or the attorney. Needless to say, there are a great many other disabled individuals who do not have the resources to fund such litigation, and attorneys willing to handle their cases without a fee are exceedingly scarce.

#### INTERAGENCY COORDINATING COUNCIL

New section 506 would establish an Interagency Coordinating Council similar to that previously established by section 7 of the Civil Rights Act of 1965, as amended, with respect to equal employment opportunity. The committee believes that coordination among agencies and departments of the Federal Government with respect to the implementation and enforcement of title V provisions is of extreme importance. The Interagency Coordinating Council established by section 505 should facilitate such coordination.

The committee is aware of Executive Order No. 11914, issued in April 1976, which directs the Secretary of the Department of Health Education, and Welfare to coordinate with other Federal departments and agencies with respect to implementation of section 504. The creation of this Council should facilitate that requirement as well as the effectiveness of that coordination.

#### COMPREHENSIVE SERVICES FOR SEVERELY HANDICAPPED INDIVIDUALS ACT OF 1978

Section 119 of the bill adds a new title VI to the Rehabilitation Act of 1973, as amended, entitled "Comprehensive Services for Severely Handicapped Individuals."

#### COMPREHENSIVE SERVICES

This title establishes a new program which has as its thrust the delivery of comprehensive services to the severely handicapped individuals of this Nation. It is intended that this title will help resolve the multiple problems experienced by severely handicapped Americans as they seek services so necessary to their health and well being. The intent of this legislation is to build State services and service systems to increase the number of and improve the quality of services for severely handicapped individuals and to assist the States in developing and implementing comprehensive services for all severely handicapped persons.

The committee has major concerns about the needs of the severely handicapped and about how best to approach meeting the multitude of needs of severely handicapped individuals. As this legislation was developed, it became clear that if this Nation were to make a commitment to provide comprehensive services to severely disabled persons, this commitment should be made to all severely handicapped persons.

For this reason, the committee has adopted a functional definition of severely handicapped individuals. At the outset, it must be clear

that this bill is targeted on those very severely handicapped persons who need multiple, continuing, and probably lifelong services and treatment and who may have little or no vocational potential. It is well to note, however, that there are severely handicapped persons who have much to contribute—if they have access to necessary support services.

#### SCOPE OF COMPREHENSIVE SERVICES FOR SEVERELY HANDICAPPED INDIVIDUALS

This part establishes that severely handicapped individuals have access to services and right to treatment required to minimize, to the extent possible, the debilitating effects of their handicaps. Advances in modern technology, treatment, and teaching techniques have demonstrated that investing in appropriate services and treatment, particularly early in life, can substantially reduce the cost of supporting and caring for severely handicapped individuals over their lifetimes.

The committee recognizes that the services to the severely handicapped to be provided under this title are many and varied. Such goods and services are those as may be necessary (a) to enhance the ability of a severely handicapped individual to live independently, to function in society, and to secure and maintain appropriate employment, (b) to have improved access to recreation and leisure-time activities, and (c) to participate, where appropriate, in preschool developmental activities. Such services include but are not limited to the following:

(1) Evaluation of functional level, strengths, and weaknesses for program planning purposes including diagnosis and related services;

(2) Vocational, self-care, independent living, and other training services including the provision of such services to parents and/or guardians as necessary to improve the care, training, and functioning ability of such severely handicapped persons;

(3) Physical, mental and psychotherapeutic services, including, but not limited to, (a) corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which constitutes a substantial handicap to the further development of an otherwise severely handicapped individual, (b) necessary hospitalization in connection with such surgery or treatment, (c) prosthetic orthotic devices, (d) eyeglasses and visual services as prescribed by a physician skilled in the diseases of the eye, (e) special services (including transportation and dialysis), artificial kidneys, and supplies necessary for the treatment of individuals suffering from end-stage renal disease;

(4) Interpreter services for deaf individuals and reader services for individuals determined to be blind;

(5) Telecommunications, sensory, and other technological aids and devices;

(6) Preschool services which include, but are not limited to, physical therapy, development of language and communication skills, and general child development services;

(7) Training in recreational and leisure-time activities including the training of personnel to provide such services to severely handicapped individuals;

- (8) Supervised living arrangements;
- (9) Independent living services; and
- (10) Transportation in connection with any habitation or rehabilitation services.

## ANNUAL STATE PLANS

It is the intent of the committee that the agency or agencies administering the vocational rehabilitation plan designated under section 101(a)(2)(A) of the Rehabilitation Act of 1973, be designated as the State agency or agencies to administer comprehensive services for severely handicapped individuals under the provisions of this title.

The reason for this is that the State vocational rehabilitation agency presently has the responsibility to provide comprehensive services to severely handicapped individuals with vocational potential, and the acumen, expertise, and specialty resources required for effectively serving the severely handicapped individuals already exist primarily in State vocational rehabilitation agencies. Since the essential requisites for the effective provision of such services are closely related to the basic components of effective vocational rehabilitation services, it is logical to place primary responsibility for comprehensive services for the severely handicapped in the state vocational rehabilitation agency. The potential for costly duplication of effort and resources is also minimized, which is extremely important to the committee.

The committee emphasizes that the State plan be designed to serve first those severely handicapped individuals who are found to be unserved. It is the intention of the committee that priorities be adhered to during the period of time covered by the plan. It has come to the attention of the committee that rehabilitation agencies operating within larger "umbrella" agencies occasionally find their funds shifted to meet some funding emergency in another State agency. In the view of the committee, this would constitute a shift of priorities which would have to be reviewed and approved by the Secretary. The committee wishes to note that a broader philosophy in the administration of the title VI program must be applied by the State vocational rehabilitation agencies as compared to the more narrow vocational approach of the title I program.

In order to encourage coordination between services provided under this act and other social services, this legislation provides in section 615(b)(6) for the maximum feasible utilization of resources available under community education programs. Under the Community Schools and Comprehensive Community Education Act (title X of the Elementary and Secondary Education Amendments of 1978, as reported by this committee in S. 1753), community education funds granted under the Elementary and Secondary Education Act may be credited as non-Federal matching funds for community services (including those provided under this act) implemented in a community school and where there is a necessary relationship with community education.

The consequence of this provision would be to encourage related community services to work out collaborative agreements with community education programs. By so doing, the related community service program (such as those funded under this act) is able to credit the amount of the community education grant received by the State or local education agency under the Elementary and Secondary Education Act as non-Federal local matching money. This incentive becomes

operative only pursuant to an agreement with such a school. Where applicable, the committee believes that this provision, in conjunction with the provision for maximum use of community education resources in section 615(b)(6) of this act, can generate important incentives to coordination of service and efficient use of school facilities. The use of community education funds as non-Federal matching funds was included in title X of the Elementary and Secondary Education Act.

Community education emphasizing the coordination of community service within the school holds promise as a possible avenue for alleviating the problem of fragmentation of services. For many segments of the American population, including many handicapped individuals, such fragmentation is a major obstacle to receipt of expected benefits of Government programs.

The committee believes that the needs of handicapped persons should be met through the use of all available resources, including community education, and that education policies, systems, and facilities should contribute fully to local community well-being. School facilities should be available, where appropriate to provide such services.

It is the purpose of section 615(b)(6) of this legislation and the expressed intent of the committee, therefore, that where services to handicapped individuals are determined to be a desirable element of the community education program, these services be provided in collaboration with existing local delivery services. "Collaboration" means that specific agreements between the schools and other public agencies will be developed and implemented, including contractual arrangements. Agreements should address issues of program content, personnel, and facility use, among others.

The act requires the States, as a condition to receiving funds under part B of the act, to provide assurances that the State has established as a goal the provision of comprehensive services to all severely handicapped individuals residing within the State and that the State is developing timetables to meet this goal. It is the intent of the committee to alert the States that all severely handicapped persons have a right to appropriate services and that such services must become available, if not immediately, at some specified time in the future. The timetable for meeting this goal is left to the individual States. However, it is expected that the States will move as quickly as possible to implement this requirement. It can be anticipated that subsequent revisions and extensions of this act will take cognizance of the progress made toward this goal and respond accordingly.

This section further requires the State plan to specify a program to (A) eliminate inappropriate placement of severely handicapped individuals in institutions, and (B) improve the quality of care provided in institutions caring for severely handicapped individuals. There has been a tendency to assume that anything done in the community satisfied the requirement of part A and a general resistance to allocating funds for part B.

The committee recognizes that residential facilities and institutions continue to be a component of the service system for those severely handicapped individuals who require such specialized 24-hour-a-day services. The committee does not intend to ignore the plight of the many severely handicapped individuals for whom such services are

appropriate and necessary. Therefore, it is required that States indicate in their State plan how the quality of care provided by such institutions is to be improved and what funds are to be used for this purpose.

#### LONG-RANGE PLAN

The committee intends that the States develop effective long-range plans for services to severely handicapped individuals and that sufficient funds for that purpose be made available. There is a general tendency for States to focus on the provision of direct services to the exclusion of planning. The legislation requires that within 18 months of the date of enactment of this title, each State receiving funds under the State grant program shall submit to the Secretary a long-range plan for the provision of appropriate services for all severely handicapped individuals residing within that State.

Such long-range plan should:

(1) Establish a goal of providing comprehensive services to all severely handicapped individuals residing within the State.

(2) Set forth priorities, policies, and procedures for the expenditures of funds under the plan which the Secretary determines are designed to assure effective and continuous State planning, evaluation, and delivery of services (both public and private) for severely handicapped individuals.

(3) Specify the number and kind of services and facilities available and accessible to severely handicapped individuals, as well as a breakdown of the types of agencies providing services to severely handicapped individuals.

(4) List the number of severely handicapped individuals residing within the State, specified according to age groups such as preschool, elementary, and secondary school age, young adult, adult, and elderly.

(5) Identify the gaps in the provision of comprehensive services provided to severely handicapped individuals residing within the State, together with a breakdown of such service gaps by type and geographical location.

(6) Set forth solutions for remedying the service gaps so identified, including, but not limited to:

(a) The initiation of new projects;

(b) The development of cooperative relationships between agencies in order to assure the availability of services to severely handicapped individuals;

(c) The coordination of all available resources in the public and private sectors for the provision of comprehensive services to severely handicapped individuals; and

(d) The development of a plan to facilitate access to comprehensive services by severely handicapped individuals and their families.

(7) Specify the activities by the State to insure the provision of comprehensive services to all severely handicapped individuals residing within the State in each of the following major service areas:

(a) Alternative community living arrangement services for the purpose of providing suitable residential arrangements in the community, such as in-home services, foster care services, protective services, group living services, respite care, staff training, placement, and maintenance services, and family support services;

(b) Infant and preschool services, such as early intervention, parent training and counseling, infant stimulation, and early identification, diagnosis, and evaluation;

(c) Nonvocational, social developmental assistance, such as training in daily living activities, day activity centers, mobility training, transportation assistance, and recreation and leisure activities; and

(d) Individualized case management, including, but not limited to, the assessment of a severely handicapped individual's developmental and vocational potential, counseling, referral and regular follow-along activities; and

(8) Provide assurances that the long-range plan be developed and annually updated in consultation with the State Council on Severely Handicapped Individuals.

The committee bill has provided that of each State's allotment not more than 10 per centum or \$60,000, whichever is the greater, for the fiscal year ending September 30, 1979, and not more than 6 per centum or \$35,000, whichever is the greater, for the fiscal year ending September 30, 1980, shall be used by each State for developing the long-range plan requirements.

#### INDIVIDUALIZED WRITTEN PROGRAMS

The individualized program is the primary vehicle for accountability in this program. The intent of this provision is to insure that these programs are developed through a careful analysis of the capabilities and needs of each individual, that this analysis is translated into specific short- and long-term goals and objectives, that specific procedures are identified to achieve the objectives, and that criteria are developed to permit evaluation of progress.

The committee wishes to clarify that the State, in assuring to the Secretary that the State has such individual programs in effect for each severely handicapped individual, is also responsible for insuring that the individualized programs are developed in accordance with the provisions of section 615. Although the program is to be developed by the program or agency primarily responsible for delivering or coordinating services, it is the State which is responsible for the quality and effectiveness of the programs.

The committee intends that the individualized program be comprehensive enough to address all of the needs of the severely handicapped person and not just those needs which can be met by the agency developing the program. For example, if an individual is enrolled in a workshop with the program developed by workshop personnel but the person requires speech therapy (or other service) which is not provided through the workshop, the program must account for this need and show how the need is to be satisfied. An individualized program which does not address all of the service needs of the individual will not satisfy the requirements of this act.

#### PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

It is the intention of the committee that severely handicapped individuals have available to them the resources of a protection and ad-

vocacy system. The States are required to assure to the Secretary that such a system is established in order to receive an allotment. It is the intent of the committee that the States have the option to either develop separate advocacy systems for the severely handicapped or incorporate such services within existing advocacy programs, which in the judgment of the States best meets the needs of the severely handicapped as required in section 604.

#### INDEPENDENT LIVING AND OTHER SERVICE PROGRAMS FOR SEVERELY HANDICAPPED INDIVIDUALS

The committee is concerned that there are inadequate numbers of exemplary service centers throughout the country to meet the needs of severely handicapped individuals. Independent living centers and exemplary service centers have been developed throughout the country—a few of them in universities—and the committee now wants to see these models of service training in community settings. The committee wants to make clear that the purpose of this section is to provide the opportunity for program development by local public agencies and private nonprofit organizations and certain Indian tribes. The committee seeks to provide diversification in the delivery of these much needed services.

In the use of the term “comprehensive” the committee intends that such service centers respond to the broad range of needs of this severely handicapped population through the direct provision of services or through appropriate review and follow-up services. It is the hope of the committee that Federal funds authorized under this section will be used to expand and coordinate services at existing programs, as well as encourage the development of new programs; however, States should undertake to assure that services are not duplicative or other resources in the community.

The ultimate goal of the committee is to assure that severely handicapped individuals within the area served by these centers receive the services so desperately needed. The method for accomplishing this will naturally vary in accordance with community needs and existing resources. Diversity is to be encouraged.

#### STATE COUNCILS

The committee believes that there is a need for handicapped individuals and providers of services to the severely handicapped to be actively involved in the development of activities and programs to serve the severely handicapped. The committee views the State councils as a partnership between consumers and providers which has been organized to serve as cooperative planners of activities to meet the special needs of the severely handicapped.

The committee expects that the State council will fulfill its major role of advising regarding the development of the State plan. Input from the consumers represented on the council should reflect priorities of service to those severely handicapped who are receiving no services.

DEVELOPMENT AND DEMONSTRATION OF MODELS FOR CENTERS AND SERVICES FOR SEVERELY HANDICAPPED INDIVIDUALS

*1. Training centers.*—It is the judgment of the committee that many severely handicapped individuals are judged to be unemployable while in school and therefore never given the training necessary for employment. Then, because they have no employable skills, they are relegated to activity or developmental centers or workshops to do arts and crafts with no further attempt at training. Giving up too early on these individuals is inconsistent with the committee's belief that every severely handicapped person is entitled to an opportunity to develop to the greatest extent possible.

The committee concurs with the statement of the Industry-Labor Council of the White House Conference on Handicapped Individuals that, "problems facing handicapped persons in the work place are not industrial problems, and are not labor problems. They are people problems, requiring cooperation and good will if solutions are to be found." This section was developed to meet some of those needs.

A model for the centers intended in this section, located in the Northeast, currently carries on many of these activities. It is the expectation of the committee that a center such as this one could be funded under these amendments so as to set the pattern for any additional area centers in the future. This would assure:

- (1) maximum effectiveness in the organization and operation of such a center;
- (2) building upon previous experience and existing facilities, especially in the special education-vocational rehabilitation interface; and
- (3) the most substantial skill, experience, and capacity in providing a broad program of service, research, training, technical assistance, and utilization in the field of rehabilitation of severely handicapped youth and adults.

Applied research at a northwest university over the past years has demonstrated without a doubt that moderately and severely retarded individuals can be trained for jobs and placed successfully in such jobs. Individuals with IQ's in the forties and fifties, after an average of only 7 months of training, are now employed and earning at least the statutory minimum wage in the food service industry. These are individuals who had been in workshops for years and supported under Supplementary Security Income benefits before training.

This training program costs approximately \$5,500 per individual for evaluation, training, placement, and followup for 2 years. When one compares these cost figures it becomes evident that the procedures developed at this center are remarkably cost efficient. The cost of training through the CETA program, for example, averages \$8,500 per individual for a full year which is sometimes extended beyond the initial year. The Job Corps provisions of the Labor Department estimate the cost of training at \$7,700 per individual.

The committee emphasizes that these centers are not meant to reduce or relieve the responsibilities of businesses with respect to the employment or advancement in employment of an otherwise qualified severely handicapped individual.

*2. Independent living and community service centers for severely handicapped individuals.*—Testimony at committee hearings suggested

that a tendency existed for some States and communities to find a community living model that appeared to satisfy the needs of severely handicapped individuals without making the effort to determine whether or not that was the best model or whether a variety of models might serve better than a single model.

Severely handicapped individuals face a variety of complex problems in attempting to become as independent as possible. Many, if not most, of these individuals could be gainfully employed, with certain limitations, on a part-time basis, but the complexities of daily living can force them into a totally dependent situation.

The purpose of this section is to provide funds for the exploration of new models of independent living and community centers. Such models, supported under grants or contracts, are expected to be innovative and explorative in nature and designed to provide States and communities with reasonable, alternative strategies for rehabilitation of severely handicapped individuals to become as independent and self-sufficient as possible.

The Commissioner is given the broadest possible discretion for the use of funds appropriated under this section in an effort to encourage the development of creativity and imaginative plans and ideas. Regulations and guidelines issued with reference to this section should maintain and encourage this flexibility.

This flexibility in funding, however, is to be counterbalanced by a strong commitment to evaluation of the effect of the project. A strong and effective evaluation plan is to be included as a part of all project support under this section. The Commissioner is encouraged to develop an overall evaluation strategy to determine the relative benefits derived from the various models.

The committee directs the Commissioner to provide assurances in the regulations that the various independent living programs, models, and activities in this act are coordinated by the State agency.

*3. Models of services for preschool age severely handicapped children.*—Severely handicapped children below the age of 3 years and their parents are desperately in need of a variety of services. The children require very careful evaluation from several professional disciplines and educational/treatment services appropriate to meet their needs. The parents require some assistance to fulfill the 24-hour responsibility for the care of these children, some instruction in how to cope with these children in the homes, and often psychological and psychiatric counseling to help them to adjust to the trauma of having become parents of a severely damaged child.

There are currently private nonprofit organizations which attempt to provide services to handicapped children below the age of 3 years. Many of these were parent initiated and designed along educational models. Such programs often do not have the professional resources to serve any but the moderately handicapped, yet often find themselves attempting to care for children who are at high risk. For example, within the area around Seattle, Wash., there are 12 preschools serving children within this age range. The children in these schools are most often moderately retarded with varying secondary handicaps. Some of these children, however, are handicapped and require a full range of health-related services as well as instructors and attendants.

The model programs envisioned by this legislation would provide facilities to serve these seriously damaged children who require extensive health-related services. It can be expected that some of these programs would be attached to children's hospitals or similar facilities. The purpose of these model programs would be to demonstrate how to provide direct care, training, and services to this select population of severely damaged children, to provide technical assistance, and resources to other preschool programs within the community serving this age range, and to provide services, either directly or indirectly to the families of such children.

The committee is aware that the Office of Education has the authority to support preschool programs for handicapped children, both on a formula basis and project grant basis. However, the concept of "education" is far too limited when one considers the complexities of very young, severely handicapped children. The physical and developmental problems of these infants and young children are often life threatening to the extent that skilled management is essential. Care for the physical development of these children must take precedence over the development of educational, treatment or developmental programs.

The purpose of these model programs for severely handicapped children is to obtain experience with broad based comprehensive services for these children.

These very young, very handicapped children will be entering public school programs at the age of 3. These preschool programs will be able to assist the public schools in providing services to all these children. The children will enter the schools with the best possible medical, psychiatric, and educational evaluation and with from 1-3 years experience under the guidance of experts in early child development. Furthermore, the preschool program will be in a position to assist the schools in planning for these children, in the delivery of services to these children, and in insuring that appropriate health resources are available as the child goes through the early school years.

It should be noted that the committee expects close coordination and cooperation between Rehabilitation Services Administration and the Bureau of Education for the Handicapped on these projects.

The committee wants to make it clear that the purpose of this section is to determine the feasibility of initiating and expanding service programs at the community level rather than in universities. Universities are ideal settings for the development of new models of services, but ultimately these models must be tried in other settings.

#### RESEARCH, TRAINING AND EVALUATION

Severely handicapped individuals and their problems have been ignored to a great extent by our society. Because of this, there is a limited base of knowledge on which to build cost effective, practical programs to meet the needs of these individuals. There have been years of research on the problems of mildly and moderately handicapped people and this research has led to improvement in all aspects of life for this population. This section represents a new beginning designed to build a knowledge base to eventually improve the life situation for the severely handicapped.

*Research.*—Effective research takes time, money, and above all, knowledgeable and committed researchers. With the significant exception of medical research, there are very few researchers experienced in research with this population. Experience with the Office of Education programs for the severely and profoundly retarded has demonstrated a willingness of grant applicants to become experts on a moment's notice, but this is a far cry from a researcher who has spent years in the development of his own knowledge and skills in the pursuit of solutions to very difficult problems.

The Secretary is cautioned that a new field of study will develop and will progress only as experts within that field have the time to develop their own skills and knowledge. There will be no quick solution to complex problems which have existed since the beginning of our industrialized society. Research programs should be built with care, expanding as the knowledge base expands. Programmatic grants of 5-year duration with option for 5-year renewal should be given serious consideration. A critical mass of investigators sharing and building knowledge together often can accomplish more in less time than individual investigators working alone on a short-term projects.

The committee expects that programs of research will be developed in all of the areas listed in the legislation but not necessarily limited to those areas.

An effective, national research program requires both a carefully conceived plan of action plus the flexibility to move quickly into new areas as new ideas emerge. This means that a plan of action is to be developed prior to committing Federal funds but that some percent of the funds must be kept apart from that plan for investment in new ideas on a moment's notice. Strict adherence to a formalized plan could mean as much as a two-year delay in trying out new ideas, something considered totally inappropriate from a research and development point of view.

Federal research programs have been plagued throughout their history by the problems of high continuing costs which limit flexibility and available funds in years subsequent to the awarding of initial grants. The Secretary should consider the development of a process for committing funds out of 1 fiscal year for the full, multiple-year term of a project. This would result in less (and hopefully higher prioritized) projects for funding in any given year but with funds available each year to support new projects. This approach assures that funds will be available each year for the support of new ideas.

*Training.*—The committee has noted that almost without exception federally supported training programs relating to handicapped individuals are focused on children. Both the Maternal and Child Health and Office of Education programs support the training of professional personnel to work with children.

Federal programs which support training of personnel to work with handicapped children do not have an emphasis on children with severely handicapping conditions.

The value of federally supported training programs has been to attract personnel into areas which would otherwise be a low priority. This approach was very successfully demonstrated through the Office of Education's training program to prepare teachers of handicapped children. It should have the same effect in attracting handicapped

as well as nonhandicapped students into work with the severely handicapped.

The provisions of this section are designed to do for the severely handicapped, both children and adults, what the Office of Education's program did in the development of teachers for handicapped school children. The committee recommends that the structure of training programs managed for the Maternal and Child Health Agencies be used as a model for the training programs under this authority.

The committee wishes to emphasize that this authority allows for the provision of stipends for traineeships. This is very important for attracting people into this field and must not be ignored by the administrative agencies.

The committee believes that the Secretary in the making of grants or contracts should consider the following three items. These items are listed in order of priority. The first is that there is a need for a balanced program; the second is that these programs will be interdisciplinary in nature; and the third allows for training within the individual disciplines and for paraprofessionals.

It is not expected that each grantee will offer training in all of the areas listed but that the Secretary will assure that training programs will be supported at one or more institutions in the various areas. Priority must be given, however, for those programs which offer interdisciplinary training and cut across several areas.

*Research and Training Coordination.*—It is a well known fact that services to the severely handicapped call for interdisciplinary efforts. It is our hope that by requiring coordination of research and training programs we will not only encourage but also prioritize programs which are truly collaborative activities.

*Evaluation and Studies.*—The committee continues its interest in the evaluation of effectiveness of federally assisted programs but is disappointed in the efforts to date to accomplish this. It is possible that the mandate to evaluate federally assisted programs has not been taken seriously and that funds have not been allocated in sufficient amounts for this purpose. The committee recognizes that evaluation studies are complex and expensive and that funds expended for evaluation efforts are not then available for direct services to handicapped individuals. It is the opinion of the committee, however, that a prudent investment in evaluation activities will increase the availability of funds for direct service through the redirection of funds from ineffective and wasteful programs to those that have demonstrated their value. There are several areas of specific concern which have been brought to the attention of the committee as needing evaluation. These include the large expenditure of funds over the past several years for the numerous conferences, symposiums and meetings which seem to absorb an ever increasing amount of Federal dollars. It is the hope of this committee that the Secretary will provide this committee with objective data on the extent to which programs achieve their objectives and whether the objectives will be worth the cost.

The committee expects the Secretary to obtain the best possible advice from experts in the field of evaluation in order to mount the most effective evaluation program.

The committee further recommends that the Secretary provide for the conduct of an objective collaborative study of the consequences of

deinstitutionalization. The committee has concern for the welfare of severely handicapped individuals who now live within communities. There is a normal fear that these individuals, particularly those with severe intellectual limitations, might become lost in the community, not receive the services they need, and actually be further disadvantaged. There is some question as to the effectiveness of the service delivery system to assure that each and every one of these individuals continues to receive the attention required. There have been reports of problem areas because community services were inadequately prepared to receive large number of individuals returning from institutions. At least one State agency has reported that lack of adequate staffing has made it impossible to develop an appropriate individualized plan for all severely handicapped individuals and to insure that plans were appropriately executed when they were developed.

Good intentions, as important as they are, cannot substitute for appropriate services. The study will assist the committee to learn if these good intentions have helped or hurt the severely handicapped.

The committee intends that this study shall be detailed and that it will provide longitudinal data from many parts of the country and from many different settings. The committee must know in detail the problems experienced by the severely handicapped in the areas of training opportunities, home situations, employment, health and mental health, and leisure time.

The committee is aware of the problems associated with possible invasion of privacy and the Secretary is cautioned that such a study must be designed in such a way as to protect the rights of the individuals involved. It is expected that this study will continue for 4 or 5 years or more. A study of this magnitude can normally be done only once and must be carefully designed at the outset. Experience with similar studies has indicated the need for careful planning; pilot studies and training of cooperative personnel are of utmost importance.

There have been a number of highly useful studies completed during recent years which can provide important guidelines for the method to be used in the proposed study. These include the Office of Education's project PRIME, the Head Start Follow Through, and the NINCDS perinatal study. Investigators associated with these studies could provide valuable advice and assistance in the planning and development of this study.

The committee has been impressed with the ability of some Federal agencies to manage and coordinate studies of this type. The most recent example has been the Office of Education's intermural research program for the research on the education of handicapped children in the conduct of project PRIME. A combination of Federal management, planning, development, coordination, and data analysis, with data collection accomplished through grants or contracts with participating agencies seems a reasonable approach to studies of this sort. The committee would like to encourage the Secretary to look into his own resources within the Department of Health, Education, and Welfare for the development and management of this study, making use of grants and contracts for the actual conduct of this study. The committee requests that in addition to an annual status report of this study interim reports of the progress of this project be sent to the Subcommittee on the Handicapped on a more frequent basis.

## TITLE II OF S. 2600—FEDERAL COUNCIL ON HANDICAPPED INDIVIDUALS

The committee is concerned that the needs of handicapped and severely handicapped individuals are not being communicated adequately at the highest levels of government. This fact was documented by those attending the White House Conference on Handicapped Individuals and is reflected in their recommendations. The views of the handicapped must be heard by those in a position to respond. For this reason, the committee has established a Federal Council on Handicapped Individuals, which will provide advice and assistance to the President and the administration. The primary responsibility of the Council will be to develop a national policy regarding all handicapped Americans.

Additional functions of the Council are detailed in the legislation. In essence, this Council will review and comment on all programs of the Federal Government relative to handicapped individuals and will serve as an ombudsman and an information source to promote the cause of handicapped individuals throughout the United States. It is expected that the Council will develop mechanisms for obtaining information and advice from other handicapped groups and individuals to assist in the formation of recommendations and plans for the future. The Federal Council is expected to maintain a liaison with the State councils on the severely handicapped to receive and react to their recommendations.

It is the intent of the committee that the Council will function as an independent body responsible for its own rules, bylaws and operating procedures and will not be under the control of any one agency of the Federal Government. The Council shall have its own staff and its own budget. Furthermore, it is the express wish of the committee that the Council not be co-located with any agency of the Government responsible for the administration of legislation relating to handicapped individuals. Experience from the past has indicated that when such councils are co-located with an administrative program, too much attention is given to that particular program at the exclusion of the other, broader concerns which are the rightful responsibilities of such councils.

The committee bill provides \$1,200,000 for the Council to carry out its responsibilities and further directs that \$200,000 is to be made available for the employment of staff for the Council. The committee intends for the Council to be adequately staffed so that it may effectively carry out its mandate.

## TITLE III—AMENDMENTS TO THE DEVELOPMENTAL DISABILITIES SERVICES AND FACILITIES CONSTRUCTION ACT

The committee bill provides for a 5 year extension of the programs funded under the authority of the Developmental Disabilities Services and Facilities Construction Act with the exception of the National Advisory Council on Services and Facilities for the Developmentally Disabled. The committee bill repeals the National Council in favor of the creation of the new Federal Council on Handicapped Individuals, which was a recommendation from the White House Conference on the Handicapped.

The committee realizes that the developmentally disabled population is a group with special needs not shared by other handicapped individuals. Developmentally disabled individuals require care, services, and planning activities from birth or early childhood throughout most of their lives. The committee extended the Developmental Disabilities Act recognizing the special needs of the developmentally disabled population and recognizes that the program simply hasn't had enough time to respond to the new directions and initiatives established in the 1975 amendments to the program.

The repeal of the Developmental Disabilities Act would have meant the loss of consumer involvement in the planning process and in the decisions that have such a vital impact on the lives of the developmentally disabled individuals of our Nation. The State planning councils provide a forum for an exchange of views among all parties most concerned with efforts to improve services to the developmentally disabled. Most importantly, the councils provide a structure that guarantees handicapped individuals the opportunity to express their views to State managers. In the view of the committee, it is critical to assure handicapped citizens and their advocates a voice at all stages in the development and implementation of programs designed to serve the developmentally disabled individual.

Among the many benefits that result from the interaction between program administrators, advocates, and consumers is the constant reminder that government's function is to serve the citizen and not the bureaucrat. Government and its agencies do not have a monopoly on wisdom, or even on good ideas. The State planning councils provide a way of developing fresh ideas and getting rid of stale ones. Council provide direct lines of communications between those who need help and those charged with the responsibility of providing that help.

It should be noted that the committee plans to monitor the program during these next 5 years, and if the program proves to have major flaws and if those flaws become apparent before 5 years have passed, the committee will undertake action to make the necessary changes before the end of the 5-year period.

#### DEFINITION OF DEVELOPMENTAL DISABILITIES

The major change adopted by the committee (section 301 of the committee bill) is the revised functional definition of developmental disabilities contained in the ABT Developmental Disabilities Definition Task Force Report and supported by a majority of the task force. This report was developed under a contract by the Developmental Disabilities Office of the Department of Health, Education, and Welfare to ABT Associates, Inc. of Cambridge, Mass. for the purpose of conducting a study in accordance with Section 301(b) of Public Law 94-103 with respect to the definition of developmental disabilities. The task force produced two definitions: One definition is functional in nature and was supported by the majority of the task force, and the second definition is categorical in nature and was supported by the minority of the task force.

The committee adopted the majority definition of the ABT task force because it is more inclusive than the present definition of a developmental disability.

According to the ABT Report, a developmental disability is a form of inability or limitation in performing roles and tasks expected of an individual within a social environment (ABT, p. 11).

The phrase "disability of a person which" is meant to convey the point that the term "developmental disability" is not a general catch-all for an arbitrary collection of existing labels attached to diseases, condition or syndromes, such as cerebral palsy or mental retardation. Mental retardation is not a developmental disability per se. Some people with mental retardation, on the other hand, have a developmental disability if their situation reflects all aspects of the definition. The "developmentally disabled" are a group of people with their experiences circumscribed by the definition. They are not defined by inference drawn from a clinical label. (ABT, p. 11.)

A developmental disability is characterized by the cumulative effect of meeting all of the criteria listed in the definition.

The phrase "is attributable to a mental or physical impairment or a combination of mental and physical impairments" is to show that the mental or physical impairment is greatly involved in the person's disability. The terms "mental" and "physical" are used because they are commonly used and accepted in the field (VR, social security). The impairment requirement of the definition is intended to be very broad and nontechnical, extending to all neurological, sensory, biochemical, intellectual, cognitive, perceptual, and affective impairments. While the term, "impairment" is intended to have the broadest application possible in the mental and physical domains, it is not intended to include social problems.

The language relating to combination of physical and mental impairments is utilized to avoid the debates of recent years over whether a particular impairment should be characterized as physical or mental. In many cases impairments are interrelated, falling into both domains (ABT, p. 12).

The overwhelming majority of task force members felt that functional limitations should be included as an element in the definition and specified in enough detail to help focus on the population of concern. "Functional limitations" are based on the individual's inability to meet age-specific expectations in certain performance areas. A 3-year-old may not be proficient in many critical performance areas (independent living capacity, for example) but if they are not substantially below the norm of the performance of 3-year-old for independent activity, then they are not "functionally limited" within the meaning of the definition (ABT, p. 16).

The majority recommendation of the task force was that the appropriate basis for the definition should be the characteristics of the disability and its impact on the person's ability to function, not the specific conditions or diagnostic categories of the individual with a disability. The definition, therefore, is intended to cut across a wide number of specific diagnostic conditions to include a subgroup of individuals within these categories of conditions who met certain criteria as spelled out in the definition (ABT, p. 18).

The definition is intended to cover everyone currently covered under the definition and is also intended to add other individuals with similar characteristics. In this definition, individuals with the conditions currently listed in the law—autism, cerebral palsy, dyslexia,

epilepsy, or mental retardation—would be included if they meet the following criteria: Manifestation prior to age 22, expectation of continuing indefinitely, substantial functional limitation, and need for multiple services for an extended period. It is not the intent, however, to exclude anyone who legitimately should have been included under the current definition (ABT, p. 19).

The committee would further add that the original Developmental Disabilities Act was enacted in 1970—over 8 years ago. Since that time great strides have been made in making society aware of the fact that handicapped people exist and can be productive citizens if provided the appropriate programs and opportunities. Also, a great deal of progress has been made in the legal rights area with the enactment of section 504 of the Rehabilitation Act of 1973 and other laws affecting the handicapped regarding affirmative action in employment and accessibility to programs and activities and buildings.

By using the ABT majority definition, the committee feels that the common needs of the developmentally disabled can be met, without the potential antagonisms between groups representing conditions included in the definition in the existing law and groups excluded from the definition.

The functional definition of developmental disabilities used by the committee in title III should lead to better access and appropriate use of services rather than categorical labeling of individuals.

The revised definition used by the committee in title III will expand the target group to be served by the act by approximately 300,000 to 400,000 persons. The following table represents estimates developed by ABT Associates of the population to be served, utilizing the new definition. Although the estimate totals 2.8 million persons, an actual population of approximately 2 million persons constitute the target group since there is a considerable number of multiply handicapped persons with overlapping impairments within the group.

Estimates of the population to be served within the proposed definition of developmental disabilities include:

	Percent	Millions
Metally retarded (profound, severe, moderate, a few mild).....	0.5	1.0
Cerebral palsy.....	.3	.6
Epilepsy.....	.25	.5
Autism.....	.05	.1
Learning disabled (chronic, socially impaired).....	.2	.2
Other severe chronic (e.g., deaf-blind, multiple handicapped, deaf, osteogenesis imperfecta, cystic fibrosis, spina bifida, muscular dystrophy).....	.2	.4
Total (plus or minus 2,000,000 allowing for overlaps).....		2.8

Since 1974, Congress has appropriated almost level funding for the Developmental Disabilities Act. The committee is also aware that during that same period, the Congress expanded the population to be served under the act by amending the definition in 1975, and now again in 1978. Because of these facts, the committee wishes to make clear that the gap-filling services provided under the Developmental Disabilities Act to individuals already receiving service should not be diminished as a result of the revised definition; however, the committee does expect that the planning process will immediately address all disability groups covered by the functional definition. In addition,

developmentally disabled individuals with those disabilities named in the existing law are to receive a proportionate share of any new funding.

To insure equity, the committee has instructed the Department of Health, Education, and Welfare to report to the Congress within 2 years (with interim reports every 6 months), following enactment of this legislation on the numbers of individuals served, by disability category, under this legislation with its revised definition. The report is to focus on whether the revised definition results in a diminution of services to individuals with disabilities specifically mentioned in current law.

#### STATE PLAN

Section 408 of the committee bill amends the State plan section (section 133(b)(3)) by adding a new paragraph immediately after paragraph (30) to require that the State undertake affirmative steps to assure the participation in programs under the Development Disabilities Services and Facilities Construction Act of individuals representative of the population of the State, with specific attention to the participation of members of minority groups.

This provision was included in the committee bill in order to stress the importance that all citizens of a State be given equitable consideration under this act, with special attention to the needs of racial and ethnic minority groups. (The use of the word "minority" in this provision is not intended to refer to a category of disability.) It is further intended to assure that the American Indian population, whether residing on or off a reservation, is included in the planning and services process established under the act.

#### STATE PLANNING COUNCILS

The committee in section 311 of the committee bill made two changes in the State planning council section of the existing law (section 137).

First, the committee increased the ratio of consumer members of the councils from the present one-third to one-half of the membership of the council. This action was taken to reflect the need for increased consumer participation that the revised definition will cause. The committee also felt that the consumer impact of this program is its strongest feature and that it should be strengthened and expanded.

Second, the committee bill amends the existing law by specifying that the State planning council shall "advise" regarding the development of the State plan, in addition to its present authority to "super-vise" the development of and to approve the State plan.

It is the committee's intent that both the State planning council and the designated State agency should work together in concert on the State plan required by the act. The committee views this amendment as strengthening the role of the council in the planning process and placing both the State planning council and the designated State agency on equal footing at the beginning and throughout the planning process. This change is to ensure that the interest of the developmentally disabled individual is the overriding goal of the plan. The committee wishes to stress that the council and the State agency should

work together as equal partners, constantly consulting each other during the preparation of the State plan required by the act.

The State planning council, being composed of representatives from the State agencies responsible for the provision of services to the developmentally disabled population, developmental disabilities consumers or their parents, and members of nongovernmental agencies and groups concerned with services to persons with developmental disabilities, should have a unique and valuable understanding of the scope of service needs of the developmentally disabled population, as well as the availability of resources through other State plans and programs for the development of needed services. The council should exercise special responsibility with respect to the setting of priorities regarding the development of gap filling services to be established under the State plan, keeping in mind the needs of the developmentally disabled population and State budgetary restraints.

#### UNIVERSITY AFFILIATED FACILITIES

The committee is favorably impressed with the history of the university affiliated facilities program both in the training of professional personnel and in the development of exemplary service programs. However, the committee would like to restate the position taken when this legislation was first authorized that these funds are for administrative and operational support only and are not to be used as a replacement for funds which are available under the normal competitive review system of other grant programs. This committee has authorized funds in other programs which are appropriate for the support of university affiliated facilities activities under a competitive review. This legislation was originally developed to enhance interdisciplinary training of personnel who work with the handicapped. Decisions to support new efforts of various universities should reflect a concern for programs which provide a wide range of interdisciplinary training.

The committee wishes to point out that the decision to award funds for administrative and operational support should bear some relationship to the quality and complexity of the programs to be administered. It has come to the attention of the committee that the Department of Health, Education, and Welfare has awarded administrative and operational grants which may have exceeded the dollar value of the programs.

It has also come to the attention of the committee that grants for administrative and operational support have been awarded by the Department of Health, Education, and Welfare without onsite visits to document the needs of such support. It is the intention of this committee that the Department of Health, Education, and Welfare give very serious attention to its mechanism for the review of such projects, that appropriate site visits be made to determine that the funds are being used for the purpose for which they are appropriated, and that the funds are used for administrative and operational support in university affiliated facilities which are of sufficient magnitude and complexity to merit such support. The committee wishes to make clear that funds appropriated under this authorization are not to be used for the support of programs for which other funds are specifically authorized under other legislation.

## EXTENSION OF AUTHORIZATIONS

The committee bill provides \$12 million for the next 5 fiscal years for the protection and advocacy systems. The authorization levels for university affiliated facilities are set at \$12 million for fiscal year 1979, \$14 million for fiscal year 1980, \$16 million for fiscal year 1981, and \$18 million for fiscal year 1982 and 1983. The construction authority is extended at the \$3 million level, the same as is in existing law. The committee bill authorizes the following for grants to the States: \$65 million for fiscal year 1979, \$70 million for fiscal year 1980, and \$75 million for fiscal years 1981 through 1983. In addition, the committee bill extends the special project grant authority for 5 years at the \$25 million level.

## TITLE IV OF S. 2600—READER SERVICES FOR THE BLIND: INTERPRETER SERVICES FOR THE DEAF AND HEARING IMPAIRED

Title IV of S. 2600 has three major provisions: (1) Reader services for the blind, (2) interpreter services for the deaf, and (3) rehabilitation services for the older blind.

## READER SERVICES FOR THE BLIND

The committee received testimony from organizations representing the blind which pointed out the communication barriers faced by blind persons who are not able to read ordinary inkprint. The committee is concerned that these barriers are most commonly confronted in elementary, secondary, and postsecondary education and in employment. It has been estimated that 70 percent of the employable blind population is either unemployed or underemployed, but regardless of the exact statistic, there is ample evidence to substantiate our Nation's failure to utilize the productive capacity of employable blind persons.

The committee believes that there are many causes for this, but a major one relates to the communication barriers which are imposed by lack of sight. Much activity in education, public service, business, and industry necessarily involves paperwork and recordkeeping, a factor which places blind persons at a disadvantage unless they have access to alternative methods for receiving the information (for example, by means of a sighted person to read the print material). In adopting legislation, such as the provisions of title V of the Rehabilitation Act of 1973 as amended and the Education for All Handicapped Children Act, the Congress has made a commitment to the handicapped that, to the maximum extent possible, they shall be fully integrated into the mainstream of life in America. The committee recognizes this commitment and the need for continuing the process of removing barriers which impede the progress of our handicapped citizens.

Access to printed information imposes a unique problem for the blind, and the committee feels that this is an area which requires special legislation. With the single exception of reader services for blind clients of vocational rehabilitation, assistance to the blind in overcoming the communication barriers imposed by lack of sight is minimal. The library service programs which do exist offer a general

reading collection without the flexibility necessary to meet the specialized educational and employment related reading needs of an increasingly active blind population.

The committee sees reading assistance for the blind as an important support service which can enable blind persons to participate more effectively in education and employment opportunities. Reading demands for anyone are highly individualized; it is intended therefore that reading services be offered so as to respond to individual needs. It is also intended that reading services to be provided will not duplicate or replace those programs already operational; rather the new authority is designed to augment and supplement current effort.

While allowing for overall Federal supervision of the reading services program through the Rehabilitation Services Administration, the committee has chosen to utilize the State vocational rehabilitation agencies serving the blind as primary administrative authorities, responsible for developing the eligibility criteria and priorities for service (in consultation with interested blind persons and organizations of blind persons within the State); ensuring that the reading services are provided so as to meet (to the maximum extent possible) the individualized reading needs of the blind of the State who are participating in elementary, secondary, postsecondary education, and employment; ensuring that eligibility conditions will not include economic needs or length of residency; establishing (where sighted readers are employed to provide service to the blind) guidelines for compensation of such readers; and performing other administrative functions necessary for the effective delivery of reading services to the blind. The committee intends that reading services programs will be conducted in a creative and responsive fashion, including where appropriate (1) employment of persons who through reading aloud can afford blind persons ready access to printed information, (2) transcription of printed information into Braille or sound recording, pursuant to the individual requests of blind persons; (3) the storage and distribution of braille materials and sound recordings, (4) the purchase, storage, and distribution of equipment and materials necessary for the production, duplication, and reproduction of such Braille materials and sound recordings, and (5) the purchase, storage, and distribution of equipment provided to blind persons that affords such persons private individual access to printed materials by mechanical or electronic means. The committee is cognizant of the specialized nature of reading services for the blind and therefore regards it as essential that knowledgeable administrators and personnel (skilled in rehabilitation and related services for the blind) have direct supervisory control over these programs. To assure that this will be the case, the committee has included the requirement that the vocational rehabilitation agency serving the blind which is designated to administer the reading services program to the blind must be at least an identifiable administrative unit with a full-time director and staff which develops and administers its own budget. The Federal funds authorized for the reading services program are to be allocated to the States on a population basis with the proviso that no State shall be entitled to less than \$25,000 annually.

## PROGRAMS FOR DEAF AND HEARING IMPAIRED

## INTERPRETERS FOR THE DEAF

The committee bill adds a new section to title II of the Rehabilitation Act of 1973 to provide for the establishment of not more than 12 programs for the purpose of training interpreters for the deaf and authorizes \$8 million for fiscal year 1979 through 1983.

The committee notes that a study, "The Deaf Population of the United States," by Jerome D. Schein and Marcus T. Delk, Jr., cites the following statistics:

PREVALENCE AND PREVALENCE RATES FOR HEARING IMPAIRMENTS IN THE CIVILIAN NONINSTITUTIONALIZED POPULATION, BY DEGREE AND AGE AT ONSET: UNITED STATES, 1971

Degree	Age at onset	Number	Rate per 100,000
All hearing impairment.....	All ages.....	13,362,842	6,603
Significant bilateral.....	do.....	6,548,842	3,236
Deafness.....	do.....	1,767,046	873
Do.....	Prevocational <sup>1</sup> .....	410,522	203
Do.....	Prelingual <sup>2</sup> .....	201,626	100

<sup>1</sup> Prior to 19 years of age.

<sup>2</sup> Prior to 3 years of age.

In spite of the obvious need for interpreters for the deaf indicated above, there are only approximately 1,600 certified interpreters in the United States. In response to this need for additional interpreters and in response to the requirements imposed by section 504 and Public Law 94-142, the committee has authorized the Secretary, through the Office for Handicapped Individuals in the Office of Human Development Services to establish not more than 12 programs for the purpose of training a sufficient number of interpreters to meet the communication needs of deaf individuals. The committee intends for base centers to be maintained at the following locations: Gallaudet College in Washington, D.C.; Saint Paul Technical Vocational Institute in Saint Paul, Minn.; California State University in Northridge, Calif.; Seattle Central Community College in Seattle, Wash.; Delgado College in New Orleans, La.; and the National Technical Institute for the Deaf in Rochester, N.Y. An additional six centers may be established by the Secretary if such centers have ongoing operating programs for training interpreters and if such centers are geographically situated so that every part of the Nation is served.

Centers which wish to maintain a program pursuant to this new authority may make application for the development of a 5-year program to provide interpreter services to deaf individuals in need of such services in specific geographic areas of need as identified by the Secretary.

In addition, centers maintaining programs under this authority may provide for short-term and inservice training and training or retraining of teachers who instruct deaf individuals and who are not certified as teachers of deaf individuals.

The committee notes that interpreters who provide services required under the Education for All Handicapped Children Act of 1975 may be trained in the centers established pursuant to the committee bill, except that funds for training such interpreters shall be drawn from funds appropriated under the Education for All Handicapped Children Act.

Any centers maintaining programs established under the committee bill may provide for the establishment and operation of satellite centers for the training of interpreters if such satellite centers are necessary or appropriate for the efficient delivery of interpreter service to deaf individuals in need of such services.

The committee intends that interpreters trained in any base center or additional center authorized by the committee bill shall be required to meet minimum standards established in the Registry of interpreters for the Deaf.

#### NATIONAL NETWORK OF SERVICES FOR DEAF INDIVIDUALS

The committee bill amends title III of the Rehabilitation Act of 1973 by adding a new section 306 which authorizes the Secretary to establish information and referral centers and interpreter referral centers for deaf individuals in each State. The committee bill authorizes \$15 million for fiscal year 1979 through 1983 to carry out these activities.

The committee expects that such State programs will be operated throughout the State in areas specifically selected to provide central locations for the provision of services to deaf individuals and that the State agency responsible for the program will involve, through contractual or other arrangements, to the extent appropriate, private, non-profit organizations comprised of deaf individuals or which provide assistance or services to deaf individuals as a primary organizational purpose. The committee intends that the interpreter services provided under this new program are to be made available to any public agency or private nonprofit organization which is involved in the delivery of assistance or services to deaf individuals. It is expected that the cost of these interpreter services may be defrayed by the referral center during the first year in which the center is in operation; however, at the end of the first year of operation, any agency receiving interpreter services is expected to reimburse the referral center for the cost of interpreter services.

Funds allocated under section 306 for use by interpreter referral shall not be used (1) to defray administrative or related costs and (2) to pay for the provision of assistance or services to deaf individuals receiving rehabilitation services as clients under any other provision of the Rehabilitation Act. Funds may, however, be used for the purchase or rental of equipment necessary to provide assistance of services to deaf individuals.

The committee expects any interpreter participating in services provided under this authority to meet the minimum standards established in the Registry of Interpreters for the Deaf.

## REHABILITATION SERVICES TO OLDER BLIND PERSONS

The need for a special direct service program to older blind persons has long been recognized in the Congress, and an attempt was made in rehabilitation bills in 1972 and 1973 to provide the necessary legislative authority. Unfortunately, these rehabilitation bills were vetoed by the President, and in the 1973 compromise which resulted, the older blind persons program was almost entirely excluded.

Section 304(b) of the Rehabilitation Act of 1973 does contain authority for special projects to demonstrate how services can be provided to the older blind. During fiscal year 1978, there are six such projects, having total appropriations of \$769,000. These projects have been highly successful, demonstrating techniques required to assist this largely unserved population.

The committee's awareness of these unmet needs of older blind persons has resulted in the inclusion of a provision in the committee bill establishing a new program of rehabilitation services to older blind persons whose combination of age and blindness makes gainful employment unattainable.

The committee is concerned that more than half of the blind population (approximately 265,000 of the estimated 500,000 legally blind persons) in the United States are over age 65. Diseases such as cataracts, glaucoma, and diabetes are prevalent among this group, and for many persons, there is no cure. Older blind persons are forced to depend on family members, friends or custodial care. Existing assistance to the older blind person amounts to income maintenance, health services and library services. Programs such as social services, housing assistance for the elderly and handicapped, and older Americans program do not address the special problems of dependency (the loss of ability and the will to function) which confront older blind citizens.

Older blind persons have not had access to the rehabilitation and adjustment services provided to blind adults of working age. The comprehensive service needs study, mandated by the Congress in the Rehabilitation Act of 1973, commented on the lack of rehabilitation and adjustment services to older blind individuals and recommended that older blind persons should have available to them a broad range of services. The committee bill includes in its scope of services to be made available to older blind persons a wide range of services and goods to assist the older blind person to adjust to his blindness and to increase his independence.

The committee bill establishes a nationwide rehabilitation program for older blind individuals, authorizes an allotment of Federal funds for each State for initiating such services, requires the administration of the program to be placed in the State Blind Commission or other agency administering the State plan for vocational rehabilitation services to the blind, and provides authorizations in the amount of \$10 million for fiscal year 1979, \$20 million for fiscal year 1980, and \$30 million for fiscal year 1981.

## TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to section 133 (b) of the Legislative Reorganization Act of 1946, as amended, the following is a tabulation of votes cast in committee:

	YEA	NAY
Mr. Williams	Mr. Riegle	None
Mr. Randolph	Mr. Javits	
Mr. Pell	Mr. Schweiker	
Mr. Kennedy	Mr. Stafford	
Mr. Nelson	Mr. Hatch	
Mr. Eagleton	Mr. Chafee	
Mr. Cranston	Mr. Hayakawa	
Mr. Hathaway		

CONGRESSIONAL BUDGET OFFICE,  
U.S. CONGRESS,  
Washington, D.C., May 15, 1978.

HON. HARRISON A. WILLIAMS, JR.,  
*Chairman, Committee on Human Resources, U.S. Senate, 4233 Dirksen  
Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared a revised cost estimate for S. 2600, the Rehabilitation Amendments of 1978. In response to additional information received from the Committee, the words "permanent authorization" have been changed to "5-year authorization" in sentence 1 of the bill purpose.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ROBERT A. LEVINE,  
*Deputy Director.*

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

MAY 15, 1978

1. Bill number: S. 2600.
2. Bill title: Rehabilitation Amendments of 1978.
3. Bill status: Ordered reported by the Senate Committee on Human Resources on May 10, 1978.
4. Bill purpose: Title I amends the Rehabilitation Act of 1973 by providing for:
  - (1) The 5-year authorization of appropriations for basic State rehabilitation service;
  - (2) A 5-year authority through fiscal year 1983 for innovation and expansion;
  - (3) The creation and special funding of vocational rehabilitation special projects for the American Indians;
  - (4) A new minimum state allotment of one-third of 1 percent or \$3 million;
  - (5) Authorization of appropriations for the rehabilitation research and training programs through fiscal year 1983;

(6) The extension of authorization through fiscal year 1983 for programs under special Federal responsibilities, and administration and evaluation;

(7) Authorization of an appropriation of \$3.5 million for the Architectural and Transportation Barriers Compliance Board;

(8) Authorizes an appropriation of \$10 million for fiscal years 1979 and 1980 for grants designed to reimburse States for studies to assess the cost of removing architectural barriers.

Title II proposes comprehensive services for the severely handicapped under the short title "Severely Handicapped Comprehensive Services Act of 1978." This title includes:

(1) Authorization of an appropriation for States to provide a system which protects and advocates the rights of severely handicapped individuals.

(2) Authorization of appropriations through fiscal year 1983 for grants for planning, for provision of comprehensive services and for construction and operation of facilities for severely handicapped individuals;

(3) Authorization of appropriations through fiscal year 1983 for centers and services to meet special needs of the severely handicapped;

(4) Authorization of appropriations for university affiliated facilities—exemplary service, training, and construction grants through fiscal year 1983; and

(5) Authorization of appropriations for research, training, and evaluation under this title through fiscal year 1983.

Title III authorizes to be appropriated \$600,000 through fiscal year 1983 for creating a Federal Council on Handicapped Individuals.

Title IV extends the authorization for programs under the Developmental Disabilities Services and Facilities Construction Act as amended.

Title V authorizes reader services for the blind, interpreter services for the deaf, and a national network of services for deaf individuals.

Creates a new title for rehabilitation services for older blind Americans.

#### 5. Cost estimate:

[By fiscal years, in millions of dollars]

	1979	1980	1981	1982	1983
<b>Title I:</b>					
Authorization level.....	985.3	1,075.3	1,156.1	1,240.4	1,334.7
Net costs.....	823.2	1,056.6	1,139.3	1,226.4	1,318.2
<b>Title II:</b>					
Authorization level.....	261.2	372.4	500.6	612.8	757.0
Net costs.....	91.1	276.4	404.4	524.9	648.0
<b>Title III:</b>					
Authorization level.....	.6	.6	.6	.6	.6
Net costs.....	.5	.6	.6	.6	.6
<b>Title IV:</b>					
Authorization level.....	83.5	89.0	94.5	94.5	94.5
Net costs.....	54.2	87.2	92.6	94.5	94.5
<b>Title V:</b>					
Authorization level.....	28.0	33.0	33.6	34.2	34.8
Net costs.....	22.4	32.0	33.5	34.1	34.7
<b>Rehabilitation services for older blind Americans:</b>					
Authorization level.....	10.0	20.0	30.0	31.7	33.4
Estimated net costs.....	3.5	13.5	23.5	30.5	32.3

The costs of this bill fall within budget function 500.

6. Basis for estimate: The majority of programs in this legislation were assigned specific authorization amounts for the 5-year projection period and net cost for those programs was calculated by spending authorization levels according to the appropriate Department of Health, Education, and Welfare spendout rates. The spendout rates reflect the spending pattern of new authority.

Specific authorization was written for rehabilitation services for older blind Americans for fiscal years 1979, 1980, and 1981. The fiscal year 1981 level was adjusted for inflation for fiscal years 1982, and 1983. Net costs were calculated using appropriate Department of HEW spendout rates.

The remaining component of the bill required estimates of the sums necessary to implement the programs. For the purpose of estimating net costs, authorization levels for the following programs were assumed to equal the President's request for fiscal year 1979: Evaluation, training services, special projects, and the Helen Keller Deaf/Blind Center. These assumed authorizations were adjusted for inflation for fiscal years 1980, and 1981, and net costs were calculated by using Department of HEW spendout rates for those program areas.

No President's request or agency estimate was available for construction grants for university affiliated facilities. Since the percentage of a State allotment for utilized construction is limited to 10 percent in title II, this percentage was applied to the total authorization for university affiliated facilities to obtain an authorization level for the construction grant component. Net costs were calculated using Department of HEW spendout rates for construction programs.

All the preceding estimates are based on the assumption of full appropriation of authorization.

7. Estimate comparison: None.

8. Previous CBO estimate: A previous CBO estimate on S. 2600 was done on May 9, 1978. Since then, the bill was changed to substitute specific authorization for the indexed authorization for basic State rehabilitation services in the previous version, and a new title added, rehabilitation services for older blind Americans.

The most recent CBO estimate on S. 2600 was done on May 12, 1978. At that time, permanent authority instead of 5-year authorization was assumed for basic State rehabilitation services. This change has no effect on authorization levels for fiscal year 1979 to 1983.

9. Estimate prepared by: Cy Karr.

10. Estimate approved by:

JAMES L. BLUM,  
*Assistant Director for Budget Analysis.*

#### REGULATORY IMPACT STATEMENT

In accordance with paragraph V of rule XXIX of the Standing Rules of the Senate, the committee makes the following evaluation of the regulatory impact which will be incurred in carrying out S. 2600.

A. Estimated number of individuals and businesses regulated and their groups or classifications: The basic purpose of the bill is to extend the authorization for programs under the Rehabilitation Act of 1973, the Developmental Disabilities Services and Facilities Construc-

tion Act, and to establish a comprehensive services program for the severely handicapped. The provisions authorize federally supported programs which do not require the regulation of any individual, business, or organization.

B. Economic impact on individuals or businesses: There is no economic impact of this act on individuals or businesses.

C. Impact of the act on personal privacy: The bill will impact on the personal privacy of handicapped individuals only insofar as they or their guardians or representatives authorize in their behalf in order to assure protection of their rights through the due process of law.

D. Additional paperwork, time, and costs: The bill extends certain due process protections to persons receiving services under the programs authorized by this act. This will have a small impact on paperwork, time, and attendant costs to the States.

### SECTION-BY-SECTION ANALYSIS

#### SEC. 1. SHORT TITLE

Subsection (a) provides that the title of the act is the "Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978."

Subsection (b) provides that except as otherwise specifically provided, any amendments to or repeal of any section or provision mentioned in title I of this act shall refer to the Rehabilitation Act of 1973.

#### TITLE I—AMENDMENTS TO THE REHABILITATION ACT OF 1973

##### SEC. 101. VOCATIONAL REHABILITATION SERVICES: AUTHORIZATION OF APPROPRIATIONS

Subsection (a) extends for 5 years the authorization of appropriations for the basic State grant program of vocational rehabilitation services authorized by section 100(b)(1) of the Rehabilitation Act of 1973, as amended, and provides for authorizations of \$813 million for fiscal year 1979, \$880 million for fiscal year 1980, \$945 million for fiscal year 1981, \$1.015 billion for fiscal year 1982, and \$1.090 billion for fiscal year 1983.

Subsection (b)(1) amends section 100(b)(2) of the act to extend for 5 years the authorization for the program of grants to State and public and nonprofit agencies to assist them in meeting the cost of projects to initiate or expand services to handicapped individuals. These extended authorizations are \$50 million for the fiscal year ending September 30, 1979, \$60 million for the fiscal year ending September 30, 1980, and \$70 million for the fiscal year ending September 30, 1981, and for each succeeding fiscal year ending prior to October 1, 1983.

Subsection (b)(2) further amends sec. 100(b)(2) of the act by striking out the reference to part D of title I of the act (relating to the study of comprehensive needs of individuals with the most severe handicaps).

Subsection (b)(3) amends the last sentence of sec. 100(b)(2) to provide that 25 percent of the sums appropriated thereunder for fiscal year 1979, and 30 percent of such sums appropriated for fiscal year

1980 and thereafter, shall be available for independent living programs.

Subsection (c) amends section 112(a) to extend for 5 years the authority to carry out pilot projects dealing with client assistance.

#### SEC. 102. STATE PLANS

Subsection (a) amends sec. 101(a)(7) of the act to provide that State plans must contain provisions relating to the establishment and maintenance of minimum standards to assure the availability of personnel trained to communicate in the client's native language or mode of communication.

Subsection (b) amends sec. 101(a)(11) of the act to provide that the cooperative arrangements provided for in the State plan will specifically include arrangements for the coordination of services to individuals eligible for services under the Rehabilitation Act and under the Education of the Handicapped Act and the Vocational Education Act of 1963.

Subsection (c) amends sec. 101(a)(18) of the act by inserting the word "personnel" before the words "working in the field of vocational rehabilitation."

Subsection (d) amends sec. 101(a) of the act to provide that the State plan shall include assurances that vocational rehabilitation services shall be provided to handicapped American Indians residing in the State to the same extent as such services are provided to other significant segments of the population of handicapped individuals residing in the State.

#### SEC. 103. SCOPE OF SERVICES: TELECOMMUNICATIONS SERVICES

Subsection (a) amends sec. 103(a)(1) of the Act by striking out the word "emotional" and inserting in lieu thereof "mental or emotional" to provide that rehabilitation services provided under the act shall include examination by a physician skilled in the diagnosis and treatment of mental and emotional disorders.

Subsection (b) amends sec. 103(b) of the act by adding a new clause (3) to provide that vocational rehabilitation services provided under this Act, when provided for the benefit of groups of individuals, may include the use of existing telecommunication systems (including telephone, television, satellite, and radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programming to meet the particular needs of handicapped individuals.

#### SEC. 104. PROCEDURAL SAFEGUARDS

Part A of title I of the act is amended by adding a new section, "Sec. 105, Procedural Safeguards" to assure that any individual served under the act is guaranteed procedural safeguards. Included is a listing of procedures required by the section; and a listing of the rights to be accorded to any party to any hearing conducted because of a complaint under this section; provisions for appeal of the findings and decision of such hearing to a three-man arbitration panel; and provision for subsequent civil action for such relief as the court may deter-

mine is appropriate. No civil action may be brought under this section for monetary damages.

#### SEC. 105. STATE ALLOTMENTS

Subsection (a) amends section 110(a) of the act to provide that the allotment to any State (other than Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) under the first sentence thereof which is less than one-third of 1 percent of the amount appropriated under subsection (b) (1) of section 100 of the act, or \$3 million, whichever is greater, shall be increased to that amount. The act presently provides that any allotment which is less than one-quarter of 1 percent of the amount appropriated under subsection (b) (1) of section 100 of the act, or \$2 million, whichever is greater, shall be increased to that amount.

Subsection (b) further amends section 110(a) by adding a new paragraph to provide that notwithstanding the provisions of the previous subsection, for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, each State shall be entitled to an allotment of amounts appropriated under the basic State grant program in excess of the amount appropriated under such subsection for the fiscal year 1978, bearing the same ratio of the amount appropriated in excess of the amount appropriated under such subsection for the fiscal year 1978 as the population of the State bears to the population of all States.

Subsection (c) amends section 110(b) of the act by adding a maintenance-of-efforts provision.

#### SEC. 106. CLIENT ASSISTANCE

This section amends sec. 112(a) of the act by striking out the words "no less than 7 or more than 20." The act presently provides that client assistance pilot projects shall be established in no less than 7 or more than 20 geographically dispersed regions. This amendment removes this numerical restriction.

#### SEC. 107. AMERICAN INDIAN VOCATIONAL REHABILITATION GRANTS

Subsection (a) amends part D of title I to provide authorization for a program of grants to tribal organizations of Indian tribes located on Federal and State reservations to pay 90 per centum of the costs of vocational rehabilitation services for handicapped American Indians residing on such reservations. Such new part includes a listing of information the applications for such grants must contain before approved by the Commissioner; a provision that authorizations for the program shall be equal to 1 per centum of the amount appropriated under section 100(b) (1) for the fiscal year 1979 and for each fiscal year thereafter ending prior to October 1, 1983; provides the method of computing the allotment of any State under section 110(a) with regard to American Indians to be served under this part; provides that any application approved under this part shall be effective for not less than 12 months unless the Commissioner determines otherwise; and that the State shall continue to provide vocational rehabilitation services under its State plan to American Indians residing on a reservation

whenever such State includes any such American Indians in its State population under section 110(a)(1).

Provision is also made for an evaluation of the programs conducted under this part not less than 42 months after the date of enactment.

Subsection (b) amends the title of contents of the act to include a reference to this new part D.

#### SEC. 108. INNOVATION AND EXPANSION GRANTS

Subsection (a) amends section 121(a) of the act by adding "special programs for independent living" to those programs for which payments can be made to the States under part C of the act.

Subsection (b) amends section 121(b) by extending from 3 to 5 years the period during which payments can be made thereunder with respect to any project beginning with the commencement of the project as approved, and by providing that sums appropriated for grants under the section shall remain available for such grants through the fiscal year ending September 30, 1983.

#### SEC. 109. RESEARCH AND TRAINING; AUTHORIZATION OF APPROPRIATIONS

Subsection (a) extends, for 5 years, the authorization of appropriations for research authorized by section 201(a)(1) of the act, as amended, as follows:

- \$40 million for the fiscal year ending September 30, 1979,
- \$46 million for the fiscal year ending September 30, 1980,
- \$53 million for the fiscal year ending September 30, 1981,
- \$60 million for the fiscal year ending September 30, 1982, and
- \$69 million for the fiscal year ending September 30, 1983.

Subsection (b) extends, for 5 years, the authorization of appropriations for training authorized by section 201(a)(2) of the act, as follows:

- \$35 million for the fiscal year ending September 30, 1979,
- \$40 million for the fiscal year ending September 30, 1980,
- \$46 million for the fiscal year ending September 30, 1981,
- \$52 million for the fiscal year ending September 30, 1982, and
- \$60 million for the fiscal year ending September 30, 1983.

#### SEC. 110 RESEARCH BY PRIVATE ORGANIZATIONS

Subsection (a) amends section 200 by striking out the words "to State and public or nonprofit agencies and organizations" and amends Section 202(a) by striking out the words "public or nonprofit" and inserting in lieu thereof "public or private".

Subsection (b) amends title II of the Act by adding a new section 205, defining the term "public" and the term "private agencies or organizations" to mean any such agencies or organizations whether nonprofit or profitmaking.

#### SEC. 111. REPEAL OF SET-ASIDE

This section repeals the second sentence of section 201(a)(1) of the act which provides that of the sums appropriated under section 201(a)(1), a certain percentum shall be available only for the establishment and support of rehabilitation engineering research centers.

## SEC. 112. RESEARCH AND TRAINING CENTERS

Subsection (a) amends section 202(a) by (1) inserting after the word, "activities" the following "(including basic medical and scientific research)," and (2) inserting after the word, "social" a comma and the following word, "psychiatric," to provide that psychiatric factors are to be taken into account in research projects, demonstrations, and related activities.

Subsection (b) amends section 202(b) (1) of the act by striking out the words, "rehabilitation research personnel" and inserting in lieu thereof, the words "rehabilitation research and other rehabilitation personnel," to provide that other rehabilitation personnel may receive training under the program authorizing the establishment and support of rehabilitation research and training centers.

Subsection (c) amends section 202(b) (2) (A) by striking out the word, "psychological" and inserting in lieu thereof the words, "psychiatric, psychological," thus providing that psychiatric knowledge is to be included in the areas which can be utilized in developing innovative methods of solving rehabilitation problems through planning and research.

Subsection (d) amends section 202(b) further, by adding a new paragraph (6), to include in the list of specialized research activities eligible for grants, the conduct of a research program concerning the use of existing telecommunications systems to meet the particular needs of handicapped individuals.

## SEC. 113. TRAINING

Subsection (a) amends section 203(b) by inserting after the word, "work" a comma and the following words, "rehabilitation psychiatry," to provide that in making grants or contracts for training, the field of rehabilitation psychiatry shall be included.

Subsection (b) amends section 203 by adding a new subsection (c) to provide for evaluation by the Secretary of the training programs authorized by the section, for determination of training needs for necessary personnel, and development of a long-term rehabilitation manpower plan designed to target resources on areas of personnel shortage.

## SEC. 114. SPECIAL FEDERAL RESPONSIBILITIES

Subsection (a) extends for 5 years, for each fiscal year ending prior to October 1, 1983, the authorization of appropriations for grants for construction of rehabilitation facilities, authorized by section 301(a), and also extends until October 1, 1985, the time during which amounts appropriated shall remain available for expenditure.

Subsection (b) amends section 302(a) to extend for 5 years, through fiscal year ending prior to October 1, 1983, the authorization of appropriations for vocational training services for handicapped individuals. The authorization is for "such sums."

Subsection (c) amends section 304(a) (1) to extend for 5 years, through fiscal year ending prior to October 1, 1983, the authorization of appropriations for special projects and demonstrations. The authorization is for "such sums." Subsection (c) further amends section

304(b) (1) by striking out "programs and facilities" and inserting in lieu thereof "and operating programs and the renovation and construction of facilities, where appropriate."

Section 304 is further amended by the addition of a new subsection (f) to provide that grants shall be made to States and public nonprofit agencies and organizations for paying part or all of the cost of initiation of recreation programs to provide handicapped individuals with recreational activities to aid in the mobility and socialization of such individuals.

Subsection (d) extends for 5 years, through fiscal year ending prior to October 1, 1983, the authorization of appropriations for the National Center for Deaf-Blind Youths and Adults, as authorized by section 305(a) of the act.

#### SEC. 115. ADMINISTRATION AND EVALUATION

Subsection (a) amends section 400(a)(2) of the act to provide that "rehabilitation psychiatry" shall be included in the fields in which instruction, fellowships, and traineeships may be provided under title IV.

Subsection (b) extends for 5 years, through fiscal year ending prior to October 1, 1983, the authorization of appropriations for administration and evaluation authorized by section 403.

Subsection (c) extends for 5 years, through fiscal year ending prior to October 1, 1983, the authorization of appropriations for secretarial responsibilities, authorized by section 405(d), and increases the authorization to \$600,000 for each fiscal year authorized.

#### SEC. 116. ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Subsection (a) amends section 502 of the Act, relating to the Architectural and Transportation Barriers Compliance Board as follows:

(1) Membership of the Board shall include six members to be appointed by the President from among members of the general public, of whom five shall be handicapped individuals; remaining members shall remain as they are in present law, including heads of each of the following departments or agencies: Department of Health, Education, and Welfare, Department of Transportation, Department of Housing and Urban Development, Department of Labor, Department of the Interior, Department of Defense, General Services Administration, Veterans' Administration. Added by this amendment would be the U.S. Postal Service.

(2) The first Chairman of the Board shall be appointed by the President, from among the public members who are handicapped individuals, and shall serve for a term of not more than 2 years; thereafter, the Chairman shall be elected by a vote of a majority of the Board for a term of 1 year. Present law provides that the Secretary of Health, Education, and Welfare shall be Chairman of the Board;

(3) Terms of office of each appointed member of the Board shall be 3 years, with certain exceptions;

(4) No individual appointed as a general public member who has served as a member of the Board may be reappointed to the Board

more than once unless such individual has not served on the Board for a period of 2 years prior to the effective date of such individual's appointment;

(5) Provisions are included for compensation of members of the Board who are not regular full-time employees of the United States, and for travel, subsistence, and other necessary expenses incurred by them, and by members of the Board who are employed by the Federal Government, in carrying out their duties under this section;

(6) For any matter calling for a vote, each member from the general public shall have one vote, and each member from Federal departments or agencies shall have one-half of one vote.

Subsection (b) amends section 502(b) (1) of the act, to provide that one function of the Board is to insure compliance with the standards prescribed pursuant to the Architectural Barriers Act of 1968, (including the application of that act to the U.S. Postal Service) including but not limited to enforcing all standards under that act, and insuring that all waivers and modifications of standards are based upon findings of fact and are not inconsistent with the provisions of such act and of section 502.

This subsection also amends section 502(b) of the act by (1) providing that the Board can sue and be sued in its own name, and be represented by its own legal counsel, in all Federal, State, and local courts; (2) providing that the Board shall establish minimum guidelines and requirements for the standards issued pursuant to the Architectural Barriers Act of 1968; and (3) insuring that public conveyances, including rolling stock, are readily accessible to, and usable by, physically handicapped persons.

Subsection (c) amends section 502(d) of the act by striking out "or contracts with", and by inserting after "organizations" the following language: "or contracts with private nonprofit or for-profit organizations", thus providing that the Board shall make contracts with private nonprofit or for-profit organizations in order to carry out its functions under sections 502(b) and 502(c).

This subsection also amends the second sentence of section 502(d) by striking out "The" and inserting in lieu thereof, "Except as provided in paragraph (3) of subsection (e), the". This language relates to the applicability of the provisions of subchapter II of chapter 5, and chapter 7 of title 5, U.S. Code procedures under this section.

Subsection (c) also amends the last sentence of section 502(d) by inserting the words, "or public conveyance or rolling stock" after the word, "building" and by striking out "prescribed pursuant to the act cited in subsection (b) of this section" and inserting in lieu thereof the words, "enforced under this section". This provides that public conveyances or rolling stock, as well as buildings, are subject to the withholding or suspension of Federal funds if found to be not in compliance with standards enforced under section 502.

Also included in subsection (c) is (1) language relating to judicial review of any final order of the Board; and (2) a provision that the Board shall develop, in consultation and coordination with other concerned Federal departments and agencies, and provide appropriate technical assistance to any public or private activity, person, or entity affected by regulations prescribed pursuant to this title with respect to architectural and transportation barriers accessibility.

Subsection (d) amends section 502(e) by adding 2 new paragraphs, one of which states that the Executive Director appointed by the Board shall exercise general supervision over all personnel employed by the Board other than hearing examiners and their assistants, and that he shall have final authority with respect to the investigation of alleged noncompliance in the issuance of formal complaints before the Board, and such other duties as the Board may prescribe. The second paragraph added provides that for the purpose of the section an order of compliance issued by the hearing examiner shall be deemed to be an order of the Board and shall be the final order for the purpose of judicial review.

Subsection (e) extends for 5 years, through fiscal year ending prior to October 1, 1983, the authorization of appropriations for the purposes of carrying out the duties and functions of the Board, authorized by section 502(h) of the act, and increases the authorization to \$3.5 million for each such fiscal year.

#### SEC. 117. GENERAL PROVISIONS AMENDMENTS

Subsection (a) amends section 2(4), Declaration of Purpose of the Act, by adding language to ensure appropriate use of rehabilitation facilities in providing rehabilitation services to the handicapped, and to assist in the construction, development, and improvement of such facilities; and amends section 2(5) by inserting the word "psychiatric," thus providing that psychiatry is included as one of the areas of knowledge that can be utilized in solving rehabilitation problems and developing new and innovative methods of providing rehabilitation services to handicapped individuals through research, special projects, and demonstrations.

Subsection (b) amends section 3(b) of the act by inserting the word, "psychiatric" before the word, "psychological," to provide that psychiatric knowledge shall be used in conjunction with other types of knowledge in the development of innovative methods to solve rehabilitation problems.

Subsection (c) amends section 7(1), relating to definition of the term "construction," by changing the wording from "alteration, and renovation" to "alteration, or renovation."

This subsection also amends section 7(4)(B) to provide that a diagnostic study shall include psychiatric as well as other listed factors which bear on the individual's handicap to employment and rehabilitation potential; and amends section 7(10)(A) and section 7(10)(F) to provide that the vocational rehabilitation services to be provided by a rehabilitation facility may include psychiatric services.

Subsection (d) adds a new paragraph (15) to section 7 of the act, containing a definition of "independent living program".

#### SEC. 118. NON-DISCRIMINATION PROGRAM PROVISIONS: INTERAGENCY COORDINATING COUNCIL

Subsection (a) amends title V of the act by adding 2 new sections: Section 505, Remedies and Attorney's Fees, and section 506, Interagency Coordinating Council.

The new section 505, Remedies and Attorney's Fees, provides that the remedies, procedures and rights in the appropriate sections of the Civil Rights Act of 1974 shall be available with respect to complaints under sections 501 and 504 of the Rehabilitation Act, and that a reasonable attorney's fee may be allowed as part of the costs.

The new section 506, Interagency Coordinating Council, establishes an Interagency Coordinating Council composed of the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Attorney General, the Chairman of the U.S. Civil Service Commission, and the Chairman of the Architectural and Transportation Barriers Compliance Board. Such Council shall have responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of the provisions of this title, and the regulations prescribed thereunder. A report shall be transmitted to the President and to the Congress on or before July 1 of each year, containing a report of the Council's activities, together with such recommendations for legislative or administrative changes as it concludes are desirable.

Subsection (b) amends the title of contents to add the above sections.

SEC. 119. COMPREHENSIVE SERVICES FOR SEVERELY HANDICAPPED  
INDIVIDUALS

PART A—GENERAL PROVISIONS

Subsection (a) adds a new title VI to the Act, entitled, "Comprehensive Services for Severely Handicapped Individuals," and section 601 thereof provides that the short title shall be the "Comprehensive Services for Severely Handicapped Individuals Act of 1978."

Section 602 of this new title contains definitions as follow: (1) "Severely handicapped individual" means an individual who has a mentally or physically handicapping condition or combination of such conditions which (A) is expected to continue indefinitely; (B) indicates a need of life-long or extended duration for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services; (C) requires the provision of comprehensive services because of significant functional limitations in at least two of the following life activities:

- (i) self-care,
- (ii) communication,
- (iii) learning,
- (iv) mobility, or
- (v) capacity for independent living; and

(D) constitutes a substantial barrier to such individual's ability to function in society.

(2) "Nonprofit facility for severely handicapped individuals" means a facility for severely handicapped individuals which is owned and operated by one or more nonprofit 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.

(3) "Nonprofit private institution of higher learning" means an institution of higher learning which is owned and operated by one or more nonprofit 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.

Section 603 of the new title, entitled "Individualized Written Program," provides (a) that each State receiving an allotment under section 612 shall provide assurances to the Secretary that an individual written program is developed for each severely handicapped individual provided comprehensive services by the State, and that the Secretary shall prescribe regulations for the development of such individualized programs; (b) that the Secretary shall prescribe procedures to insure that the individualized written program shall be coordinated with other programs or plans required under section 102 of the Rehabilitation Act, section 112 of the Developmental Disabilities Act and with sections 612(4) and 614(a)(5) of the Education of All Handicapped Children Act of 1975, respectively.

Section 604 of the new title, entitled "Protection and Advocacy of Individual Rights," provides that as a condition to a State receiving an allotment under section 614 and payments under section 612 for any fiscal year after the fiscal year ending September 30, 1979, such State shall provide the Secretary satisfactory assurances that the State has in effect a system to protect and advocate the rights of severely handicapped individuals. Such system (1) shall have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such individuals who are receiving services within such State, and (2) shall be independent of any State agency that provides services under this title to such individuals.

Provision is also made, in subsection (b), to insure coordination of the system to advocate and protect the rights of such individuals with the system to protect and advocate the rights of persons with developmental disabilities required under section 113 of the Developmental Disabilities Services and Facilities Construction Act.

In order to assist States in developing and maintaining systems to meet the requirements of this section, the Secretary is directed to allot to the States the sums appropriated hereunder in the same manner as funds are allotted under section 614 and paid under section 612 of the new title.

Authorizations to carry out the purposes of the new section 604 are as follows: \$20 million for the fiscal years ending September 30, 1979, and 1980, and \$25 million for the 3 succeeding fiscal years.

Section 605 of the new title, entitled "Employment of Handicapped Individuals," provides that each recipient of assistance shall take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions required with respect to the employment of such individuals under the provisions of this act which govern employment by State rehabilitation agencies and rehabilitation facilities and under Federal contracts and subcontracts.

Section 606 of the new title, entitled "Administration" provides that the Secretary is authorized to apply any provision of title I of the Rehabilitation Act, modified as necessary to meet the special needs of

severely handicapped individuals, which is consistent with the provisions of the new title VI.

Part B of the new title VI, entitled "State Grants for Provision of Comprehensive Services and Planning for Severely Handicapped Individuals," authorizes grants to States to assist in developing and implementing comprehensive services for severely handicapped individuals. For this purpose the following amounts are authorized:

- \$110 million for the fiscal year ending September 30, 1979;
- \$170 million for the fiscal year ending September 30, 1980;
- \$230 million for the fiscal year ending September 30, 1981;
- \$280 million for the fiscal year ending September 30, 1982; and
- \$350 million for the fiscal year ending September 30, 1983.

Section 611(c) of the new title provides that not less than 30 per centum of the funds paid to a State under section 614 shall be used for the purpose of funding, coordination and development of projects and programs with respect to independent living and other programs services. However, the Secretary may waive all or part of such 30 per centum requirement if he determines that such State does not have and cannot feasibly use the funds required to be expended for the purposes specified.

Section 612 of the new title, entitled "Payments to States," provides that from each State's allotment under this part for any fiscal year (including any additional allotments made to such State under section 614(b)), the Secretary shall pay to such State an amount equal to the Federal share of the cost of comprehensive services for severely handicapped individuals under the State plan approved under section 615, including expenditures for the administration of the State plan, except that the total of such payments to such State for such fiscal year may not exceed its total allotment under section 614, including any allotments made to such State under section 614(b) for such year.

The method of computing and paying amounts shall be as follows:

(1) Prior to the beginning of each period for payment, the Secretary shall estimate the amount to be paid each State for such period.

(2) In each payment period, the Secretary shall pay, from the allotment available for each State, the amount so estimated. This amount shall be reduced or increased by any amount the Secretary's estimate of the amount to be paid such State for the prior payment was greater or lesser than the amount which should have been paid for such period. Payments shall be made—

(A) prior to audit or settlement by the General Accounting Office;

(B) through the disbursing facilities of the Treasury Department; and

(C) in such installments as the Secretary may determine.

Section 612(c) of the new title provides for withholding of payments, if deemed necessary by the Secretary, after the State agency so designated has been given notice of opportunity for hearing.

Section 613 of the new title VI, entitled "Scope of Comprehensive Services for Severely Handicapped Individuals," states that comprehensive services for severely handicapped individuals provided under title VI are any goods or services as may be necessary to enhance the ability of a severely handicapped individual to live independently or

to function in society and, if appropriate, secure and maintain appropriate employment. Such goods and services may include—

- (1) those goods and services specified in paragraphs (1) through (11) of section 103(a) of the Rehabilitation Act, to the extent such goods and services are appropriate to carry out the provisions of this title;
- (2) physical, mental, and psychotherapeutic services;
- (3) recreational and leisure time activities; and
- (4) preschool services.

Section 614 of the new title VI, entitled "Allotment of Funds" provides that of the sums appropriated under section 611(b) of the new title VI, each State shall be allotted for payment under section 612 an amount which bears the same ratio to such sums as the population of such State bears to the population of all States, except that—

- (1) each State shall be allotted not less than one-half of 1 per centum of the amounts made available under section 611(b) of the new title for the fiscal year for which the allotment is made, and
- (2) Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands (not included in paragraph (1) above) shall each be allotted not less than one-eighth of 1 per centum of the amounts made available under section 611(b) for the fiscal year for which the allotment is made.

Language in section 614(b) provides for reallocation of sums which have been appropriated under section 611(b) but not paid to a State under such section by the end of the sixth month of the fiscal year because of such State's failure to qualify for such sums. The Secretary shall make reallocation of the total amounts not paid to States in an amount which bears the same ratio to the total amount to be reallocated as the population of each qualifying State bears to the population of all qualifying States. Additionally, the Secretary may make available for reallocation such amounts which he determines, after consultation with such State, will not be used by such State during such fiscal year for carrying out the provisions of the title. If the Secretary determines that a State will not use any of the amounts paid pursuant to section 612, such State shall not be eligible for reallocation of funds. Funds made available through reallocation shall remain available for expenditure until the end of the fiscal year following the fiscal year in which such funds become available for reallocation.

Section 614(c) of the new title provides that whenever the State plan approved in accordance with section 615 provides for participation of more than one State agency, the State may apportion its allotment among such agencies in a manner which is reasonably related to the responsibilities assigned to such agencies in carrying out the purposes of the State plan. Funds so apportioned to State agencies may be combined with other State or Federal funds authorized to be spent for other purposes, if the purposes of the State plan will receive proportionate benefit from the combination.

Section 614(d) of the new title provides for combining of portions of funds allotted to States involved in a cooperative or joint effort between States or between or among agencies, public or private, in more than one State.

Section 615 of the new title VI, entitled "Annual State Plans," requires that for each fiscal year in which a State desires to participate in the program authorized under title VI, a State shall submit to the Secretary for approval a State plan to provide for a program of comprehensive services for severely handicapped individuals designed to enhance the ability of such severely handicapped individuals to function in society and, if appropriate, secure and maintain appropriate employment; and sets forth procedures for preparation and submission of such plan.

Section 615(b) of the new title sets forth the requirements of the State plan. Such plan shall:

(1) Designate the State agency or agencies administering the vocational rehabilitation plan pursuant to title I of this act as the agency or agencies to administer the provisions of this title.

(2) Describe the quality, scope, and extent of the comprehensive services being provided to severely handicapped individuals and specify the State's goals and plans with respect to the distribution of grants pursuant to the independent living and service programs established under section 617 of the new title VI.

(3) Provide assurances that comprehensive services will be provided only in accordance with the individualized written program, and describe the efforts undertaken to assure appropriate coordination and consultation in the preparation of such written programs.

(4) Provide that special efforts will be undertaken to provide technical assistance to urban and rural poverty areas with respect to the provision of comprehensive services for severely handicapped individuals and describe such efforts.

(5) Provide assurances that efforts will be undertaken by the appropriate State agency to eliminate the inappropriate placement of severely handicapped individuals in institutions and to improve the quality of care provided by such institutions, and describe the efforts undertaken by the State during the previous year with respect to such efforts.

(6) Provide for the maximum utilization of all available resources, including community education programs and volunteers, so long as volunteer services supplement and do not provide substitutes for the services of paid employees.

(7) Specify plans for maximizing the use of telecommunication systems, sensory, and other technological aids and devices which have the potential for improving and providing comprehensive services for severely handicapped individuals.

(8) Provide for the adequate staffing and support of the State Council on Severely Handicapped Individuals.

(9) Contain such additional information and assurances as the Secretary finds necessary to carry out the provisions of this part.

(10) Conform to such other requirements consistent with the purposes and provisions of title VI as the Secretary by regulation may prescribe.

(11) Specify that the plan required under this section is in accordance with goals and timetables set forth in the long-range plan required under section 616.

Section 615(c) provides that the provisions of subsection (b), (c), and (d) of section 101 of the Rehabilitation Act shall apply to any State plan submitted to the Secretary pursuant to this section.

Section 616 of the new title VI, entitled "Long-Range Plan", provides that within 18 months of the date of enactment, each State, as a condition of receipt of its allotment under this title, shall submit to the Secretary a long-range plan concerning the provision of appropriate services under the act for all severely handicapped individuals residing within such State. Such long-range plan shall include goals and timetables for identifying and providing services under the title to all severely handicapped individuals residing within such State and plans for coordinating available public and private resources with programs and activities to be carried out under this title. The section also provides for annual update of the long-range plan as part of the annual State plan submitted under section 615 for the fiscal year ending September 30, 1981, and for each fiscal year thereafter:

Section 616(b) provides (1) that from the funds allotted and paid to a State under section 614, not more than 10 percent or \$60,000, whichever is greater, for the fiscal year ending September 30, 1979, and not more than 6 percent or \$35,000, whichever is greater, for the fiscal year ending September 30, 1980, shall be used by each State for developing the long-range plan; and (2) that from such sums not more than 6 percent or \$35,000, whichever is the lesser, for the fiscal year ending September 30, 1981 and each succeeding fiscal year shall be used by each State for the purpose of updating the long-range plan as required:

Section 617 of the new title VI, entitled "Independent Living and Other Service Programs", provides that a State receiving payments under this title shall make grants to local public agencies, private non-profit organizations, or tribal organizations of Indian tribes located on Federal and State reservations, for the establishment or operation of centers to provide services for severely handicapped individuals, such as independent living centers, designed to enable such individuals to secure and maintain employment or to enhance their ability to live independently or function in the society.

Subsection (b) of section 617 sets forth the information and assurances that must be included in an application in order to be eligible for a State grant under this section. Such application must include assurances that such agency, organization, or tribal organization will provide services exclusively to severely handicapped individuals, including—

- (1) Attendant care and training of personnel to provide such care.
- (2) Referral and counseling services with respect to attendant care:
- (3) Intake counseling to determine the need for specific services.
- (4) Community group living arrangements.
- (5) Education and training necessary for living in the community and participating in community activities.
- (6) Housing and transportation referral and assistance.
- (7) Surveys, directories, and other activities to identify appropriate housing and accessible transportation and provide housing referral, transportation, and other support services.
- (8) Health maintenance services.

(9) Peer counseling.

(10) Individual and group social and recreational activities.

(11) Such other services as may be necessary and not inconsistent with the provisions of this title.

Sec. 618 of the new title VI, entitled, "Federal Share; Non-Duplication", provides that the Federal share of any allotment under this part may not exceed 80 percent of the necessary cost, except that projects located in urban or rural poverty areas may receive up to 90 percent of the project's necessary costs; and that the non-Federal share of the cost of any project assisted by a grant or allotment under this title may be provided in kind.

Sec. 618(b) provides that for the purpose of determining the Federal share of the expenditures incurred under a State plan approved under section 615, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any provision of law other than section 614, and (2) the percentage of non-Federal funds required to be expended in programs similar to the programs established under this title.

Section 619 of the new title VI, entitled, "State Councils on Severely Handicapped Individuals", provides that each State receiving assistance under this part shall establish a State Council on Severely Handicapped Individuals which will serve as an advocate for severely handicapped individuals. Members of such council shall be appointed by the Governor of the State, who shall make appropriate provisions for the rotation of membership on the council of his respective State. Each council shall at all times include in its membership representatives of the principal State agencies, local agencies, and nongovernmental agencies and groups concerned with the provision of services to severely handicapped individuals in that State. At least one-half of the membership of such State Council shall consist of individuals who—

(1) are severely handicapped individuals or the parents or guardians of such individuals;

(2) are generally representative of the population of severely handicapped individuals in such State; and

(3) are not officers or employees of any State agency or any other entity which receives funds or provides services under this part.

Not more than one-fourth of the members of such State Council may also serve as members of that State's State Planning Council established under section 137 of the Developmental Disabilities Services and Facilities Construction Act. The Chairman of such State Planning Council or his designee shall serve as a nonvoting ex officio member of the council established under this section.

Section 619(b) of the new title enumerates the duties and responsibilities of each State Council on Severely Handicapped Individuals, and section 610(c) provides that each State receiving assistance under this part shall provide adequate staff and support for the State Council on Severely Handicapped Individuals to insure that the council is able to carry out the provisions of the act.

Part C of the new title VI is entitled "Demonstrations and Models for Centers and Services to Meet Special Needs of Severely Handicapped Individuals." Section 621(a) authorizes and directs the Sec-

retary to provide financial assistance by grants to or contracts with public agencies or private nonprofit institutions for the development and demonstration of models for centers and the provision of services to meet the special needs of severely handicapped individuals. Such models shall include (1) the establishment and operation of training centers to create and utilize the best methods of appraising and developing the employment potential of severely handicapped individuals; (2) the establishment and operation of models for independent living and community service centers for severely handicapped individuals; and (3) models of services for preschool age severely handicapped children.

Section 621 (b) provides that applications for grants or contracts under this section shall be in such form and contain such information as the Secretary may require, and also provides that in determining whether to approve such applications, the Secretary shall consider the needs of the severely handicapped individuals in the area to be served by the applicant and the capability of the applicant to develop and apply new methods and techniques.

Section 621 (c) provides that funds under the section may be used to cover part of the cost of renovation or modernization of facilities to be used in connection with an activity assisted under a grant or contract made under the section.

Section 621 (d) provides for coordination of the program of models for independent living authorized under subsection (a) (2) with the special programs for independent living authorized under section 121 (a) of the Rehabilitation Act.

Section 621 (e) authorizes the following appropriations to carry out the provisions of the section:

\$60 million for the fiscal year ending September 30, 1979;

\$85 million for the fiscal year ending September 30, 1980;

\$115 million for the fiscal year ending September 30, 1981;

\$140 million for the fiscal years ending September 30, 1982, and

September 30, 1983,

and provides that not more than 10 percent of the funds appropriated for any fiscal year shall be used for renovation or modernization of facilities.

Section 622, entitled "Research, Training and Evaluation," provides for grants to and contracts with States, public or nonprofit agencies and organizations, and academic institutions to pay part of the cost of projects for planning and conducting research, demonstrations, studies and related activities to develop methods, procedures, and devices to assist in the provision of comprehensive services for severely handicapped individuals. Such grants and contracts shall be coordinated with grants and contracts under other appropriate programs of the Department of Health, Education, and Welfare.

Provision is also made in this section for grants and contracts to pay part of the cost of projects for training, traineeships, and related activities designed to assist in increasing the quality of training, and numbers of personnel trained to provide comprehensive services for severely handicapped individuals and perform such other functions as may be necessary to the development of such comprehensive services. Such grants and contracts shall be coordinated with grants and contracts under other appropriate programs of the Department of Health, Education, and Welfare.

Subsection (c) provides:

(1) For continuing evaluation of all programs and activities conducted pursuant to this title: such process to include examination of the cost effectiveness factor, the impact of programs and activities of severely handicapped individuals, and the implications of all programs and activities under this title for related programs; and

(2) For an annual report to Congress by the Secretary concerning the conditions affecting severely handicapped individuals, to include:

(a) Results of the evaluations required above;

(b) Report on the level of accomplishment in research and development;

(c) Comments on the quality of services received by severely handicapped individuals; and

(d) Recommendations for future research, training, evaluation, services, procedures, and legislation needed to improve the lives of severely handicapped individuals.

Section 622(e) provides the following appropriations to carry out the provisions of the section:

\$12 million for the fiscal year ending September 30, 1979;

\$15 million for the fiscal year ending September 30, 1980;

\$18 million for the fiscal year ending September 30, 1981;

\$21 million for the fiscal year ending September 30, 1982; and

\$24 million for the fiscal year ending September 30, 1983,

and provides that of the amounts appropriated in each fiscal year, not more than 2 percent shall be made available to carry out evaluations with respect to programs carried out under part B of title VI (State Grants for Provision of Comprehensive Services and Planning for Severely Handicapped Individuals).

Subsection (b) of the bill amends the table of contents of the Rehabilitation Act to include a listing of the contents of the new title VI.

## TITLE II—FEDERAL COUNCIL ON HANDICAPPED INDIVIDUALS

### SEC. 201. COUNCIL ESTABLISHED

This section establishes a Federal Council on Handicapped Individuals to provide advice and assistance to the President concerning the problems and needs of handicapped and severely handicapped individuals.

### SEC. 202. DUTIES OF THE COUNCIL

Subsection (a) sets forth the duties of the council, including:

(1) To advise and assist the President on matters relating to the special needs of handicapped and severely handicapped individuals;

(2) Review and evaluation on a continuing basis all policies, programs, and activities concerning handicapped and severely handicapped individuals and persons with developmental disabilities conducted or assisted by all Federal Departments and agencies;

(3) Serving as an ombudsman on behalf of handicapped and severely handicapped individuals;

(4) Informing the public about problems and needs of handicapped and severely handicapped individuals by collection and dissemination of information; and

(5) Providing public forums for discussing and publicizing the problems and needs of handicapped and severely handicapped individuals.

Subsection (b) provides for interim reports and an annual report to the President not later than March 31 of each year, such reports to be transmitted to the Congress by the President with comments and recommendations.

#### SEC. 203. MEMBERSHIP OF THE COUNCIL: APPOINTMENTS, CONDUCT OF BUSINESS

Subsection (a) provides that the council shall be composed of fifteen members, to be appointed by the President, and shall be representative of handicapped and severely handicapped individuals, national organizations with an interest in severely handicapping conditions, providers of service to the handicapped, business concerns, and labor organizations. At least five members of the council shall be handicapped or severely handicapped individuals.

Subsection (b) provides that members of the council shall serve for 3 years, except that of those members first appointed, five shall serve 1 year, five 2 years and five 3 years. Members shall be eligible for reappointment.

Subsection (c) provides that persons appointed to fill vacancies shall serve only for the remainder of the term.

Subsection (d) provides that the President shall designate the chairman and the chairman shall call meetings at least four times a year. The Secretary shall be an ex officio member of the council.

Subsection (e) provides that eight members of the council shall constitute a quorum.

Subsection (f) provides that the council shall make necessary by-laws, rules and regulations.

#### SEC. 204. COMPENSATION OF COUNCIL MEMBERS

This section provides that members of the council who are otherwise employed by the Federal Government shall serve without compensation in addition to that received in regular employment; provides that members of the council other than Federal employees shall receive compensation at rates not to exceed the daily rate prescribed for GS-18 under section 5332, title 5, United States Code, for each day they are engaged in performance of their duties including travel-time, and that while engaged away from their homes or regular places of business, such members may also be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703 of title 5 for persons in Government service employed intermittently.

#### SEC. 205. RESPONSIBILITIES OF THE SECRETARY

This section provides that the Secretary shall make available to the council such staff, information and other assistance as it may require.

**SEC. 206. AUTHORIZATION OF APPROPRIATIONS**

Subsection (a) authorizes the appropriation of \$1,200,000 for fiscal year 1979 and each succeeding fiscal year ending prior to October 1, 1983.

Subsection (b) provides that of the amounts appropriated above, \$200,000 shall be made available in each fiscal year for the employment of staff for the council.

**TITLE III—AMENDMENTS TO THE DEVELOPMENTAL DISABILITIES SERVICES AND FACILITIES CONSTRUCTION ACT**

**SEC. 301. DEFINITIONS**

This section amends paragraph (7) of section 102 of the Developmental Disabilities Services and Facilities Construction Act by changing the definition of the term “developmental disability.”

**SEC. 302. NATIONAL ADVISORY COUNCIL REPEALED**

This section repeals section 108 of the Developmental Disabilities Services and Facilities Construction Act, which provides for the national advisory council on services and facilities for the developmentally disabled.

**SEC. 303. SPECIAL REPORT REQUIRED**

This section adds a new section 108 to the Developmental Disabilities Services and Facilities Construction Act, to provide that the Secretary shall make a special report to the Congress concerning the modification of the definition of “developmentally disabled” made by section 301 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978.

Such report shall include:

- (1) An analysis of the impact of the modification of such definition on all categories of persons with developmental disabilities receiving services under this Act prior to the date of enactment of such modification and for each of the two succeeding fiscal years, and
  - (2) An assessment, evaluation, and comparison of services provided for the same time periods,
- and shall be submitted within 30 months of the date of enactment.

**SEC. 304. EVALUATION SYSTEM**

This section amends sec. 110(a) and sec. 110(d) of the Developmental Disabilities Services and Facilities Construction Act by striking out references to the national advisory council on services and facilities for the developmentally disabled.

**SEC. 305. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS**

This section amends sec. 113 (b) (2) of the Developmental Disabilities Services and Facilities Construction Act by authorizing \$12 mil-

lion for the fiscal year ending September 30, 1979 and for each of the 4 succeeding fiscal years to assist States in meeting the requirements of such Act with regard to a system to protect and advocate the rights of persons with developmental disabilities.

#### SEC. 306. AUTHORIZATION OF APPROPRIATIONS; DEMONSTRATION GRANTS

This section extends for 5 years the authorization of appropriations for demonstration and training grants to university affiliated facilities authorized by section 121 of the Developmental Disabilities Services and Facilities Construction Act, and provides for the following authorizations:

- \$12 million for the fiscal year ending September 30, 1979;
- \$14 million for the fiscal year ending September 30, 1980;
- \$16 million for the fiscal year ending September 30, 1981; and
- \$18 million for each of the fiscal years ending September 30, 1982 and September 30, 1983.

#### SEC. 307. AUTHORIZATION OF APPROPRIATIONS; CONSTRUCTION

This section extends for 5 years the authorization of appropriations for grants to university-affiliated facilities to assist them in meeting the costs of renovation or modernization of buildings used in connection with an activity assisted by a grant under section 121(a) and for the construction, renovation, or modernizing of buildings to be used as satellite centers, authorized by section 127 of the Developmental Disabilities Services and Facilities Construction Act, and provides for the following authorizations: \$3 million for each of the fiscal years 1979 through 1983.

#### SEC. 308. AUTHORIZATION OF APPROPRIATIONS FOR ALLOTMENTS

This section extends for 5 years the authorization of appropriations under part C of the Developmental Disabilities Services and Facilities Construction Act—Grants for planning, provision of services, and construction and operation of facilities for persons with developmental disabilities, section 131 of the Development Disabilities Services and Facilities Construction Act, and provides for the following authorizations:

- \$65 million for the fiscal year ending September 30, 1979;
- \$70 million for the fiscal year ending September 30, 1980; and
- \$75 million for the fiscal years ending September 30, 1981, September 30, 1982, and September 30, 1983.

#### SEC. 309. STATE ALLOTMENTS

This section amends section 132(a)(1)(B)(i)(II) of the Developmental Disabilities Services and Facilities Construction Act by providing that the allotments of States in any fiscal year shall not be less than the greater of \$250,000, or the amount of the allotment received by the State for the fiscal year ending June 30, 1974. Present law provides for a figure of \$150,000 or such amount.

## SEC. 310. STATE PLANS

This section amends section 133(b) of the Developmental Disabilities Services and Facilities Construction Act by adding a new paragraph (31), stating that the State plan for the provision of services and facilities for persons with developmental disabilities must provide assurances that the State has undertaken affirmative steps to assure the participation in programs under the act of individuals generally representative of the population of the State, with particular attention to the participation of members of minority groups.

## SEC. 311. STATE PLANNING COUNCILS

Subsection (a) amends section 137 (a) of the Developmental Disabilities Services and Facilities Construction Act, regarding the establishment of State planning councils, to additionally provide:

- (1) For rotation of membership on the council of each State; and
- (2) That at least one-half of the membership of such council, instead of one-third as required by present law, shall consist of persons with developmental disabilities or the parents or guardians of such persons, and of persons who are not officers or employees of any State agency or any other entity which receives funds or provides services under this part.

Subsection (b) amends section 137(b) of such act by providing that one of the responsibilities of the State planning council is to "advise regarding and supervise the development of and approve the State plan required by this part," and by adding a new paragraph to provide that the State planning council shall coordinate its activities with the State council on severely handicapped individuals established in the State under section 619 of the Comprehensive Services for Severely Handicapped Individuals Act of 1978.

## SEC. 312. GRANT AUTHORITY

This section amends section 145 of the Developmental Disabilities Services and Facilities Construction Act (1) by striking out the reference to the National Advisory Council on Services and Facilities to the Developmentally Disabled; (2) by adding a new subsection to provide that the Secretary shall establish procedures to insure participation of persons with developmental disabilities and their parents or guardians in determining priorities to be utilized by the Secretary in making project grants under the provisions of the section; and (3) by extending for 5 years, through fiscal year ending prior to Oct. 1, 1983, the authorization of appropriations for making payments under special project grants (part D of the act). \$25 million is authorized for each of these fiscal years.

## SEC. 313. SHORT TITLE

This section amends section 101 of the Developmental Disabilities Services and Facilities Construction Act to change the title thereof to the "Developmental Disabilities Assistance and Bill of Rights Act."

**TITLE IV—READER SERVICE FOR THE BLIND:  
INTERPRETER SERVICES FOR THE DEAF**

**SEC. 401. SHORT TITLE**

This section provides that title IV may be cited as the "Reader Services for the Blind, Interpreter Services for the Deaf, and Rehabilitation Services for the Older Blind Act of 1978".

**SEC. 411. READER SERVICES FOR THE BLIND**

This section sets forth the purposes of this part:

- (1) To provide reading services to blind persons,
- (2) To authorize grants to States to provide reading services to blind persons who are not otherwise eligible for such services through State and Federal programs; and
- (3) To expand the quality and scope of reading services available to blind persons.

**SEC. 412. AUTHORIZATION OF APPROPRIATIONS**

This section authorizes the following appropriations to carry out the purposes of this part:

- \$5 million for the fiscal year ending September 30, 1979; and
  - \$10 million for the fiscal year ending September 30, 1980; and
- such sums as may be necessary for each succeeding fiscal year.

**SEC. 413. STATE ENTITLEMENTS AND ALLOCATIONS**

Subsection (a) provides that from the sums authorized under section 412, each State shall be entitled to an amount which bears the same ratio to the total amount of such sums as the population of the State bears to the population of all the States which apply for such funds. In no case shall a State receive less than \$25,000.

Subsection (b) provides that if any amount of a State's allocation for any fiscal year will not be utilized by such State in carrying out the purposes of this part, the Secretary shall make such amount available to one or more other States which he determines will be able to use such additional amounts for carrying out such purposes.

**SEC. 414. STATE APPLICATIONS**

Subsection (a) provides that a State's application for payments pursuant to section 413 of this part may be a part of the State's plan for vocational rehabilitation services for the blind submitted to the Secretary pursuant to section 101(a) of the Rehabilitation Act of 1973. Such application must:

- (1) Designate to administer the reading services program an agency of the State which meets the requirements enumerated;
- (2) Contain the plans, policies, and methods to be followed in providing reading services to the blind;
- (3) Provide assurances satisfactory to the Secretary that such methods of administration, other than methods relating to the establishment and maintenance of personnel standards, as are found by the Secretary to be necessary will be follows;

(4) Provide assurances satisfactory to the Secretary that eligibility of blind persons for reading services authorized under this part shall be determined without regard to individual economic need;

(5) provide assurances satisfactory to the Secretary that no residence requirement will be imposed that excludes from services under this part any blind person who is present in the State;

(6) Provide assurances satisfactory to the Secretary that the views of blind persons and organizations of blind persons will be taken into account in resolving matters of general policy arising in the administration of the reading services program;

(7) Provide assurances satisfactory to the Secretary that the State agency designated to administer the reader services program shall make report in such form and containing such information as the Secretary may from time to time reasonably require and will keep such records and afford such access thereto as the Secretary finds necessary to insure the correctness and verification of such reports; and

(8) Provide assurances satisfactory to the Secretary that the funds paid to the State under this part will be disbursed and accounted for in accordance with necessary fiscal control and fund accounting procedures.

Subsection (b) provides that applications submitted under subsection (a) must meet requirements of such subsection, and that if any application does not meet such requirements the Secretary shall disapprove such application. Provision is also made for a cutoff of payments to any State agency failing to comply with any requirements set forth in their application until the Secretary is satisfied there is no longer any failure to comply with the requirements involved. If any State is dissatisfied with the Secretary's actions under paragraph (1) or (2) or this subsection, such State may appeal to the appropriate U.S. district court and judicial review of such action shall be on the record in accordance with the provisions of chapter 7 of title 5, U.S. Code.

#### SECTION 415. PAYMENTS TO STATES

Subsection (a) provides that each State shall receive an amount equal to the amount expended by the State for carrying out the purposes of this part in such State, including administration expenditures, except that the total of such payments to such State for any fiscal year may not exceed its allotment for such year under section 413 of this part.

Subsection (b) provides that payments under this part may be made in advance or by way of reimbursement and in such installments as the Secretary may determine necessary.

#### SECTION 416. DEFINITIONS

This section defines the term "blind person," "reading services," "Secretary," and "State."

## PART B—INTERPRETER SERVICES FOR THE DEAF

## SECTION 421. FINDINGS AND PURPOSES

Subsection (a) sets forth the findings of Congress with respect to the need to remove communications barriers which affect deaf individuals.

Subsection (b) states that the purpose of this part is:

- (1) To provide for the training of a sufficient number of interpreters to meet the needs of deaf individuals throughout the Nation, and
- (2) To establish a mechanism for the efficient delivery of interpreter services to deaf individuals.

## SECTION 422. INTERPRETER SERVICES

This section amends title II of the Rehabilitation Act of 1973 by adding a new section (to be designated as Section 204) entitled "Interpreter Services." Such new section provides that the Secretary, through the Office for Handicapped Individuals, may establish not more than 12 programs for the purpose of training a sufficient number of interpreters to meet the communications needs of deaf individuals. Such programs shall be established at locations throughout the Nation which are designed to provide for the most efficient delivery of interpreter services.

The interpreter training programs maintained at the following institutions shall be eligible to serve as base centers, upon meeting the requirements established in this section:

- Gallaudet College in Washington, D.C.;
- Saint Paul Technical Vocational Institute in St. Paul, Minn.;
- California State University in Northridge, Calif.;
- Seattle Central Community College in Seattle, Wash.
- Delgado College in New Orleans, La.; and
- National Technical Institute for the Deaf in Rochester, N.Y.

The Secretary is authorized to establish six additional centers which have ongoing operating programs for training interpreters and are so situated that they can provide training for individuals in State in geographic areas to insure that every part of the Nation is served.

The new Section 204(d) provides that applications under this section shall be submitted to the Office for Handicapped Individuals, and shall: (1) provide for the development of a 5-year program, and (2) contain such other information as the Secretary may require. Any application which meets the requirements of the section shall be approved.

The new Section 204(f) provides that programs under this section may include training or retraining of teachers who are involved in providing instruction to deaf individuals but who are not certified as teachers of deaf individuals, and also provides that short-term, inservice training may also be provided to teachers of deaf individuals. Provision is also made that interpreters who provide services required under the Education for All Handicapped Children Act of 1975 may be trained in any such program, except that funds for such training shall be drawn from funds appropriated under such act.

Subsection (g) of the new section 204 provides for the establishment and operation of satellite centers for the training of interpreters.

Subsection (h) provides that any interpreter trained in programs under this section shall be required to meet minimum standards established in the Registry for Interpreters of the Deaf.

Subsection (i) authorizes an appropriation of \$8 million for each of the fiscal years ending September 30, 1979 through 1983.

#### SECTION 423. NATIONAL NETWORK OF SERVICES FOR DEAF INDIVIDUALS

This section amends title III of the Rehabilitation Act of 1973 by adding a new section (to be designated as Section 306), entitled "National Network of Services for Blind Individuals." Such new section provides:

(a) That the Secretary shall establish a program designed to provide for the establishment of information and referral centers, and interpreter referral centers for deaf individuals, in each State;

(b) That from sums appropriated under this section for any fiscal year, each State shall be entitled to an amount based upon the number of deaf individuals residing in such State as compared to such number in all States;

(c) That any State desiring to receive funds under this section may submit an application to the Secretary and outlines certain items that must be contained in such application;

(d) That the Secretary shall approve any such application which meets the requirements of this section;

(e) That interpreter referral services shall be designed to provide a pool of available interpreters for specific geographical areas: such services to be made available to any public agency or private nonprofit organization which is involved in the delivery of assistance or services to deaf individuals;

(g) That any funds allocated under this section for use by an interpreter referral center may be used only for the provision of interpreter services and shall not be used to defray administrative or related costs;

(h) That no funds under this section may be used for the provision of assistance or services to deaf individuals who are receiving rehabilitation services as clients under any other provision of the Rehabilitation Act;

(i) That funds made available under this section may be used only for the purchase or rental of equipment necessary to provide assistance or services to deaf individuals; and

(j) An authorization of appropriations of \$15 million for each of the fiscal years ending September 30, 1979 through 1983.

#### PART C—REHABILITATION SERVICES FOR OLDER BLIND PERSONS

##### SEC. 431. DECLARATION OF PURPOSE

This section sets forth the purpose of this part as authorizing grants to States—

(a) To assist in the development of plans for meeting the needs for services of older blind persons;

- (b) For evaluation of the needs of older blind persons for rehabilitation services and personal adjustment services; and
- (c) For the provision of rehabilitation and personal adjustment services for older blind persons in order to assist such persons to adjust to blindness and to render such persons more capable of caring for their individual needs.

#### SEC. 432. AUTHORIZATION OF APPROPRIATIONS

This section authorizes the following appropriations to carry out the purposes of this part:

- \$10 million for the fiscal year ending September 30, 1979;
  - \$20 million for the fiscal year ending September 30, 1980;
  - \$30 million for the fiscal year ending September 30, 1981; and
- such additional sums as may be necessary for each of the succeeding fiscal years.

#### SEC. 433. SCOPE OF REHABILITATION SERVICES FOR OLDER BLIND PERSONS

Subsection (a) provides that rehabilitation services for older blind persons are any goods or services necessary to assist an older blind person to adjust to blindness and to render such person more capable of caring for his individual needs, and enumerates a list of such goods or services that are included.

Subsection (b) enumerates the services that may be included whenever rehabilitation services are provided for a group of older blind persons.

Subsection (c) provides that any medical or medically related services (other than those related to screening and evaluation) or any supportive services related to maintenance under subsections (a) and (b) of this section shall be provided only after full consideration of eligibility of the blind individual for any similar benefit by way of pension, compensation, and insurance.

#### SEC. 434. STATE ENTITLEMENTS AND ALLOCATIONS

Subsection (a) provides that from the sums authorized under section 432, each State shall be entitled to an amount which bears the same ratio to the total amount of such sums as the population of the State bears to the population of all the States which apply for funds pursuant to section 435.

Subsection (b) provides that any amount of a State's allocation for any fiscal year which will not be utilized by such State in carrying out the provisions of this part shall be made available to one or more other States which the Secretary determines will be able to use additional amounts during such year for carrying out such provisions.

#### SEC. 435. STATE APPLICATIONS

Subsection (a) provides that any State desiring to receive an allocation pursuant to section 434 for any fiscal year shall submit an application to the Secretary. Such application may be a part of the State's plan for vocational rehabilitation services submitted to the Secretary pursuant to section 101(a) of the Rehabilitation Act of 1973. Such application must:

(1) Designate to administer the older blind persons rehabilitation program an agency of the State which meets the requirements enumerated;

(2) Set forth the plans, policies and methods to be followed in providing services for rehabilitation of older blind persons and for the administration and supervision of the program;

(3) Describe the quality, extent, and scope of rehabilitation services for older blind persons through any other federally or nonfederally assisted program and how funds allotted to the State will be used to complement and augment rather than duplicate or replace the services provided by such other programs;

(4) Describe the conditions for eligibility for participation of blind persons in the program authorized under this part;

(5) Provide assurances that eligibility of blind persons for services authorized under this part shall be determined without regard to individual economic needs;

(6) Provide assurances that no residence requirement will be imposed;

(7) Provide assurances that the views of blind persons and organizations of blind persons will be taken into account in resolving matters of general policy arising in the administration of the services under the program established under this part;

(8) Provide for cooperation by the State agency administering this program with other public and private agencies concerned with the blind or older persons and for joint undertakings among such agencies to further the effectiveness of rehabilitation services for older blind persons;

(9) Provide such methods of administration, other than methods relating to the establishment and maintenance of personnel standards, as are found to be necessary for the proper and efficient administration of the program;

(10) Contain provisions relating to establishment and maintenance of minimum standards governing facilities and personnel;

(11) Provide for reports from the State agency administering the program; and

(12) Provide assurances relating to fiscal control and fund accounting procedures.

Subsection (b) provides that any application submitted which meets the stated requirements shall be approved by the Secretary, and that any such application which does not meet such requirements shall be disapproved. Provision is also made for a cutoff of payments to any State agency failing to comply with any requirements set forth in their application until the Secretary is satisfied there is no longer any failure to comply with the requirements involved. If any State is dissatisfied with the Secretary's actions under paragraphs (1) or (2) of this subsection, such State may appeal to the appropriate U.S. district court and judicial review of such action shall be on the record in accordance with the provisions of chapter 7 of title 5, United States Code.

#### SEC. 436. PAYMENTS TO STATES

Subsection (a) provides that each State shall receive an amount equal to the amount expended by the State for carrying out the provi-

sions of this part in such State, including administration expenditures, except that the total of such payments to such State for any fiscal year may not exceed its allotment for such year under section 434 of this part.

Subsection (b) provides that payments under this part may be made in advance or by way of reimbursement and in such installments as the Secretary may determine to be necessary.

#### SEC. 437. DEFINITIONS

This section provides definitions of the terms "blind," "older blind person," "Secretary," and "State."

The title is amended to read:

A Bill to amend the Rehabilitation Act of 1973 to extend certain programs in such act and to establish a comprehensive services program for severely handicapped individuals, to amend the Developmental Disabilities Services and Facilities Construction Act to extend certain programs established in such Act, and for other purposes.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

### Rehabilitation Act of 1973

(As amended by Public Law 93-516)

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Rehabilitation Act of 1973":*

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##### PART D—AMERICAN INDIAN VOCATIONAL REHABILITATION PROGRAM

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*Sec. 131. Evaluation.*

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**TITLE VI—COMPREHENSIVE SERVICES FOR SEVERELY  
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- Sec. 601. Short title.*  
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- Sec. 621. Development and demonstration of models for centers and services*  
*Sec. 622. Research, training and evaluation.*

**DECLARATION OF PURPOSE**

SEC. 2. The purpose of this Act is to provide a statutory basis for the Rehabilitation Services Administration, and to authorize programs to—

\* \* \* \* \*

[(a) assist in the construction and improvement of rehabilitation facilities;]

(4) insure appropriate use of rehabilitation facilities in providing rehabilitation services to handicapped individuals, and assist in the construction, development, and improvement of such facilities;

(5) develop new and innovative methods of applying the most advanced medical technology, scientific achievement, and *psychiatric*, psychological and social knowledge to solve rehabilitation problems and develop new and innovative methods of providing rehabilitation services to handicapped individuals through research, special projects, and demonstrations;

(6) initiate and expand services to groups of handicapped individuals (including those who are homebound or institutionalized) who have been underserved in the past, and *initiate and expand special services and activities designed to provide independent living arrangements to assist handicapped individuals in their preparation for and engagement in gainful employment;*

\* \* \* \* \*

**REHABILITATION SERVICES ADMINISTRATION**

SEC. 3.

\* \* \* \* \*

(b) The Secretary, through the Commissioner in coordination with other appropriate programs in the Department of Health, Education, and Welfare, in carrying out research under this Act shall establish the expertise and technological competence to, and shall, in consultation with, the National Science Foundation and the National Academy of Sciences develop and support, and stimulate the development and utilization (including production and distribution of new and existing devices) of, innovative methods of applying advanced medical technology, scientific achievement, and *psychiatric*, psychological and social knowledge to solve rehabilitation problems, and be responsible for carrying out the activities described in section 202(b) (2).

\* \* \* \* \*

#### DEFINITIONS

SEC. 7. For the purposes of this Act:

(1) The term "construction" means the construction of new buildings, the acquisition, expansion, remodeling, [alteration, and renovation] *alteration, or renovation* of existing buildings, and initial equipment of such buildings, and the term "cost of construction" includes architects' fees and acquisition of land in connection with construction but does not include the cost of offsite improvement.

\* \* \* \* \*

(4) The term "evaluation of rehabilitation potential" means, as appropriate in each case:

(A) a preliminary diagnostic study to determine that the individual has a substantial handicap to employment, and that vocational rehabilitation services are needed;

(B) a diagnostic study consisting of a comprehensive evaluation of pertinent medical, *psychiatric*, psychological, vocational, educational, cultural, social, and environmental factors which bear on the individual's handicap to employment and rehabilitation potential including, to the degree needed, an evaluation of the individual's personality, intelligence level, educational achievements, work experience, vocational aptitudes and interests, personal and social adjustments, employment opportunities, and other pertinent data helpful in determining the nature and scope of services needed;

(C) an appraisal of the individual's patterns of work behavior and ability to acquire occupational skill, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns suitable for successful job performance, including the utilization of work, simulated or real, to assess and develop the individual's capacities to perform adequately in a work environment;

(D) any other goods or services provided for the purpose of ascertaining the nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services;

(E) referral;

(F) the administration of these evaluation services; and

(G)(i) the provision of vocational rehabilitation services to any individual for a total period not in excess of eighteen months for the purpose of determining whether such individual is a handicapped individual, a handicapped individual for whom a vocational goal is not possible or feasible (as determined in accordance with section 102(c)), or neither such individual; and (ii) an assessment, at least once in every ninety-day period during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described in subclause (i) may be made.

\* \* \* \* \*

(10) The term "rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to handicapped individuals, and which provides singly or in combination one or more of the following services for handicapped individuals: (A) vocational rehabilitation services which shall include, under one management, medical, *psychiatric*, psychological, social, and vocational services, (B) testing, fitting, or training in the use of prosthetic and orthotic devices, (C) prevocational conditioning or recreational therapy, (D) physical and occupational therapy, (E) speech and hearing therapy, (F) *psychiatric*, psychological and social services, (G) evaluation of rehabilitation potential, (H) personal and work adjustment, (I) vocational training with a view toward career advancement (in combination with other rehabilitation services), (J) evaluation or control of specific disabilities, (K) orientation and mobility services to the blind, and (L) extended employment for those handicapped individuals who cannot be readily absorbed in the competitive labor market, except that all medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to prescribe or supervise the provision of such services in the State.

\* \* \* \* \*

(15) *The term 'independent living program' means for purposes of title I of this Act a set of organized specially designed services and activities of such scope and duration designed to assist individuals with the most severe handicaps in the achievement and maintenance of such life activities as self-care, communication, learning, mobility and any other life activity necessary to enhance the ability to function in society and in the community and to prepare for appropriate employment.*

\* \* \* \* \*

## TITLE I—VOCATIONAL REHABILITATION SERVICES

### PART A—GENERAL PROVISIONS

#### DECLARATION OF PURPOSE; AUTHORIZATION OF APPROPRIATIONS

SEC. 100. (a) The purpose of this title is to authorize grants to assist States to meet the current and future needs of handicapped individuals, so that such individuals may prepare for and engage in gainful employment to the extent of their capabilities.

(b) (1) For the purpose of making grants to States under part B of this title to assist them in meeting costs of vocational rehabilitation services provided in accordance with State plans under section 101, there is authorized to be appropriated \$650,000,000 for the fiscal year ending June 30, 1974, \$680,000,000 for the fiscal year ending June 30, 1975, \$720,000,000 for the fiscal year ending June 30, 1976, \$740,000,000 for the fiscal year ending September 30, 1977, [and] 760,000,000 for the fiscal year ending September 30, 1978, \$813,000,000 for fiscal year 1979, \$880,000,000 for fiscal year 1980, \$945,000,000 for fiscal year 1981, \$1,015,000,000 for fiscal year 1982, and \$1,090,000,000 for fiscal year 1983.

(2) For the purpose of carrying out part C of this title (relating to grants to States and public and nonprofit agencies to assist them in meeting the cost of projects to initiate or expand services to handicapped individuals, especially those with the most severe handicaps) [and part D of this title (relating to the study of comprehensive service needs of individuals with the most severe handicaps)], there is authorized to be appropriated \$37,000,000 for the fiscal year ending June 30, 1974, \$39,000,000 for the fiscal year ending June 30, 1975, \$42,000,000 for the fiscal year ending June 30, 1976, [and] \$25,000,000 for the years ending September 30, 1977, and September 30, 1978, \$50,000,000 for the fiscal year ending September 30, 1979, \$60,000,000 for the fiscal year ending September 30, 1980, and \$70,000,000 for the fiscal year ending September 30, 1981, and for each succeeding fiscal year ending prior to October 1, 1983; and there is further authorized to be appropriated for such purposes for each such year such additional sums as the Congress may determine to be necessary. [Of the sums appropriated under this paragraph for each such fiscal year, \$1,000,000 in each such year shall be available only for the purpose of carrying out Part D of this title.] *Twenty-five per centum of the sums appropriated under this paragraph for fiscal year 1979, and 30 per centum of such sums appropriated for fiscal year 1980 and thereafter, shall be available for independent living programs.*

#### STATE PLANS

SEC. 101. (a) For each fiscal year in which a State desires to participate in programs under this title, a State shall submit to the Secretary for his approval an annual plan for vocational rehabilitation services which shall—

\* \* \* \* \*

(7) contain (A) provisions relating to the establishment and maintenance of personnel standards, which are consistent with any State licensure laws and regulations, including provisions relating to the tenure, selection, appointment, and qualifications of personnel, [and] (B) provisions relating to the establishment and maintenance of minimum standards governing the facilities and personnel utilized in the provision of vocational rehabilitation services, but the Secretary shall exercise no authority with respect to the selection, method of selection, tenure of office, or compensation of any individual employed in accordance with such provision, and (C) provisions relating to the establishment and

*maintenance of minimum standards to assure the availability of personnel trained to communicate in the client's native language or mode of communication;*

(11) provide for entering into cooperative arrangements with, and the utilization of the services and facilities of, the State agencies administering the State's public assistance programs, other programs for handicapped individuals, veterans program, manpower programs, and public employment offices, and the Social Security Administration of the Department of Health, Education, and Welfare, the Veterans' Administration, and other Federal, State, and local public agencies providing services related to the rehabilitation of handicapped individuals, *specifically including arrangements for the coordination of services to individuals eligible for services under this Act and under the Education of the Handicapped Act and the Vocational Education Act of 1963;*

(18) provide satisfactory assurances to the Secretary that the State agency designated pursuant to clause (1) (or each State agency if two are so designated) and any sole local agency administering the plan in a political subdivision of the State will take into account, in connection with matters of general policy arising in the administration of the plan, the views of individuals and groups thereof who are recipients of vocational rehabilitation services or, in appropriate cases, their parents or guardians), *personnel working in the field of vocational rehabilitation, and providers of vocational rehabilitation services: [and]*

(19) provide satisfactory assurances to the Secretary that the continuing studies required under clause (15) of this subsection as well as an annual evaluation of the effectiveness of the program in meeting the goals and priorities set forth in the plan, will form the basis for the submission, from time to time as the Secretary may require, or appropriate amendments to the plan[.]; *and*

(20) *provide satisfactory assurances to the Commissioner that, except as otherwise provided in part D, the State shall provide vocational rehabilitation services to handicapped American Indians residing in the State to the same extent as the State provides such services to other significant segments of the population of handicapped individuals residing in the State.*

#### SCOPE OF VOCATIONAL REHABILITATION SERVICES

SEC. 103. (a) Vocational rehabilitation services provided under this Act are any goods or services necessary to render a handicapped individual employable, including, but not limited to, the following:

(1) evaluation of rehabilitation potential, including diagnostic and related services, incidental to the determination of eligibility for, and the nature and scope of, services to be provided, including, where appropriate, examination by a physician skilled in the diagnosis and treatment of [emotional] *mental or emotional dis-*

orders, or by a licensed psychologist in accordance with State laws and regulations, or both;

\* \* \* \* \*

(b) Vocational rehabilitation services, when provided for the benefit of groups of individuals, may also include the following:

(1) in the case of any type of small business operated by individuals with the most severe handicaps the operation of which can be improved by management services and supervision provided by the State agency, the provision of such services and supervision, along or together with the acquisition by the State agency of vending facilities or other equipment and initial stocks and supplies; [and]

(2) the construction or establishment of public or nonprofit rehabilitation facilities and the provision of other facilities and services which promise to contribute substantially to the rehabilitation of a group of individuals but which are not related directly to the individualized rehabilitation written program of any one handicapped individual[.]; and

(3) *The use of existing telecommunication systems (including telephone, television, satellite, and radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programming to meet the particular needs of handicapped individuals.*

\* \* \* \* \*

#### PROCEDURAL SAFEGUARDS

*SEC. 105. (a) Any State agency which receives assistance under this Act shall establish and maintain procedures to assure that any individual served under this Act is guaranteed procedural safeguards.*

*(b) The procedures required by this section shall include, but shall not be limited to—*

*(1) an opportunity for the individual to examine all relevant records respecting the development and implementation of an individualized written rehabilitation program under this Act, or the refusal to develop or implement such a program;*

*(2) written prior notice to the individual whenever a providing agency—*

*(A) refuses to initiate or change,*

*(B) refuses to develop, or*

*(C) refuses to implement,*

*an individualized written rehabilitation program as provided under this Act; and*

*(3) an opportunity to present complaints with respect to any matter described in clause (2) of this subsection.*

*(c) (1) Whenever a complaint has been received under subsection (b) of this section, the individual shall have an opportunity for an impartial hearing which shall be conducted by the State agency. No hearing conducted pursuant to this paragraph shall be conducted by an employee of such agency, or by any employee of any other agency or grantee which is involved in the written individualized rehabilitation program of the individual, or by any person having a*

personal or professional interest which would conflict with his or her objectivity in the hearing.

(2) Any party to any hearing conducted pursuant to paragraph (1) of this subsection shall be accorded—

(A) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped persons,

(B) the right to present evidence and confront, cross-examine, compel the attendance of witnesses,

(C) the right to a written or electronic verbatim record of such hearing, and

(D) the right to written findings of fact and decisions.

(3) A decision made in a hearing conducted pursuant to paragraph (1) of this subsection shall be final, except that any party involved in such hearing may appeal such decision under the provisions of subsection (d) of this section. A decision made under subsection (d) of this section shall be final, except that any party may bring an action under subsection (e) of this section.

(d) Any party aggrieved by the findings and decision made under subsection (c) of this section may appeal such decision to arbitration by a panel of three persons consisting of one person designated by the head of the State agency, one person designated by the individual, and a third person selected by the head of the State agency and the individual, who shall serve as chairman.

(e) Any party aggrieved by the findings and decision made under subsection (d) of this section shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this subsection the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

(f) No civil action may be brought under this section for monetary damages.

## PART B—BASIC VOCATIONAL REHABILITATION SERVICES

### STATE ALLOTMENTS

SEC. 110. (a) (1) For each fiscal year, each State shall be entitled to an allotment of an amount bearing the same ratio to the amount authorized to be appropriated under subsection (b) (1) of section 100 for allotment under this section as the product of (1) the population of the State and (2) the square of its allotment percentage bears to the sum of the corresponding products for all the States. The allotment to any State (other than Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands) under the first sentence of this subsection for any fiscal year which is [less than one-quarter of 1 per centum of the amount appropriated under subsection (b) (1) of section 100, or \$2,000,000] less than one-third of 1 per centum of the amount appropriated under subsection (b) (1) of section 100, or \$3,000,000, whichever is greater, shall be increased to that

amount, the total of the increases thereby required being derived by proportionately reducing the allotments to each of the remaining such States under the first sentence of this subsection, but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than that amount.

(2) *Notwithstanding the provisions of paragraph (1) of subsection (a), for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, each State shall be entitled to an allotment of amounts appropriated under subsection (b) (1) of section 100 in excess of the amount appropriated under subsection (b) (1) of section 100 for the fiscal year 1978, bearing the same ratio of the amount appropriated in excess of the amount appropriated under subsection (b) (1) of section 100 for the fiscal year 1978 as the population of the State bears to the population of all States.*

(b) If the payment to a State under section 111(a) for a fiscal year is less than the total payments such State received under section 2 of the Vocational Rehabilitation Act for the fiscal year ending June 30, 1973, or if a State received, due to the maintenance of effort provisions, less than 80 per centum as the Federal share expended by the State for the program (exclusive of non-Federal dollars used for construction), such State shall be entitled to an additional payment (subject to the same terms and conditions applicable to other payments under this part) equal to the difference between such payments under this 111(a) and the amount so received by it. Payments attributable to the additional payment to a State under this subsection shall be made only from appropriations specifically made to carry out this subsection, and such additional appropriations are hereby authorized.

\* \* \* \* \*

#### CLIENT ASSISTANCE

SEC. 112. (a) From funds appropriated under section 304 for special projects and demonstrations in excess of \$11,860,000 the Secretary shall set aside up to \$1,500,000, but no less than \$500,000 for the fiscal year ending June 30, 1974, up to \$2,500,000 but no less than \$1,000,000 for the fiscal year ending June 30, 1975, up to \$2,500,000 but no less than \$1,000,000 for the fiscal year ending June 30, 1976, up to \$2,500,000 but no less than \$1,000,000 for the fiscal year ending September 30, 1977, and up to \$2,500,000 but no less than \$1,000,000 for the fiscal year ending September 30, 1978, and for each succeeding fiscal year ending prior to October 1, 1983 to establish in [no less than 7 nor more than 20] geographically dispersed regions client assistance pilot projects (hereinafter in this section referred to as "projects") to provide counselors to inform and advise all clients and client applicants in the project area of all available benefits under this Act and, upon request of such client or client applicant, to assist such clients or applicants in their relationships with projects, programs, and facilities providing services to them under this Act. In the event that funds so appropriated under section 304 do not exceed \$11,860,000 in any fiscal year, the Secretary is authorized to utilize such funds to carry out this section.

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#### PART C—INNOVATION AND EXPANSION GRANTS

## STATE ALLOTMENTS

## SEC. 120.

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## PAYMENTS TO STATES

SEC. 121. (a) From each State's allotment under this part for any fiscal year, the Secretary shall pay to such State or, at the option of the State agency designated pursuant to section 101 (a) (1), to a public or nonprofit organization or agency, a portion of the cost of planning, preparing for, and initiating special programs under the State plan approved pursuant to section 101 to expand vocational rehabilitation services, including programs to initiate or expand such services to individuals with the most severe handicaps, [or] of special programs under such State plan to initiate or expand services to classes of handicapped individuals who have unusual and difficult problems in connection with their rehabilitation, particularly handicapped individuals who are poor, and responsibility for whose treatment, education, and rehabilitation is shared by the State agency designated in section 101 with other agencies, *or of special programs for independent living*. The Secretary may require that any portion of a State's allotment under this section, but not more than 50 per centum of such allotment, may be expended in connection with only such projects as have first been approved by the Secretary. Any grant of funds under this section which will be used for direct services to handicapped individuals or for establishing or maintaining facilities which will render direct services to such individuals must have the prior approval of the appropriate State agency designated pursuant to section 101.

(b) Payments under this section with respect to any project may be made for a period of not to exceed [three] *five* years beginning with the commencement of the project as approved, and sums appropriated for grants under this section shall remain available for such grants through the fiscal year ending [September 30, 1979] *September 30, 1983*. Payments with respect to any project may not exceed 90 per centum of the cost of such project. The non-Federal share of the cost of a project may be in cash or in kind and may include funds spent for project purposes by a cooperating public or nonprofit agency provided that it is not included as a cost in any other federally financed program.

\* \* \* \* \*

## [PART D—COMPREHENSIVE SERVICE NEEDS

## [SPECIAL STUDY

[SEC. 130. (a) The Secretary shall conduct a comprehensive study, including research and demonstration projects of the feasibility of methods designed (1) to prepare individuals with the most severe handicaps for entry into programs under this Act who would not otherwise be eligible to enter such programs due to the severity of their handicap, and (2) to assist individuals with the most severe handicaps who, due to the severity of their handicaps or other factors such as their age, cannot reasonably be expected to be rehabilitated for employment but for whom a program of rehabilitation could improve

their ability to live independently or function normally within their family and community. Such study shall encompass the extent to which other programs administered by the Secretary do or might contribute to the objectives set forth in clauses (1) and (2) of the preceding sentence and the methods by which all such programs can be coordinated at Federal, State, and local levels with those carried out under this Act to the end that individuals with the most severe handicaps are assured of receiving the kinds of assistance necessary for them to achieve such objectives.

[(b) The Secretary shall report the findings of the study, research and demonstrations directly by subsection (a) of this section to the Congress and to the President together with such recommendations for legislative or other action as he may find desirable, not later than June 30, 1975.]

*PART D—AMERICAN INDIAN VOCATIONAL REHABILITATION PROGRAM*

*VOCATIONAL REHABILITATION SERVICES GRANTS*

*SEC. 130. (a) The Commissioner is authorized, in accordance with the provisions of this part, to make grants to tribal organizations of Indian tribes located on Federal and State reservations to pay 90 per centum of the costs of vocational rehabilitation services for handicapped American Indians residing on such reservations.*

*(b) No grant may be made under this part unless an application therefor has been submitted to and approved by the Commissioner. The Commissioner may not approve an application unless the application—*

*(1) is made at such time, in such manner, and contains such information as the Commissioner may require;*

*(2) contains assurances that the rehabilitation services provided under this part to handicapped American Indians residing on a reservation in a State shall be, to the maximum extent feasible, comparable to rehabilitation services provided under this title to other handicapped individuals residing in the State; and*

*(3) contains assurances that the application was developed in consultation with the State agency designated under section 101(a)(1).*

*The provisions of clauses 1 and 3-section 102(a) of the Indian Self-Determination and Education Assistance Act, shall be applicable to any application submitted under this part.*

*(c) In addition to any amounts authorized to be appropriated under any other provision of this Act and for the purpose of carrying out grant programs for American Indian vocational rehabilitation services in accordance with the provisions of this part, there is authorized to be appropriated an amount equal to 1 per centum of the amount appropriated under section 100(b)(1) (for the purpose of making grants to States under part B) for the fiscal year 1979 and for each fiscal year thereafter ending prior to October 1, 1983.*

*(d) For the purpose of computing the allotment of any State under section 110(a), the number of American Indians residing on a reservation to be served under this part pursuant to such application shall*

be subtracted from the population used for such State in section 110 (a) (1) as follows:

(1) 33 per centum of such American Indians in the first fiscal year following the fiscal year in which such application was approved;

(2) 66 per centum of such American Indians in the second fiscal year following the fiscal year in which such application was approved; and

(3) 100 per centum of such American Indians in the third fiscal year following the fiscal year in which such application was approved.

(e) Any application approved under this part shall be effective for not less than 12 months except as determined otherwise by the Commissioner pursuant to prescribed regulations. The State shall continue to provide vocational rehabilitation services under its State plan to American Indians residing on a reservation whenever such State includes any such American Indians in its State population under section 110 (a) (1).

#### EVALUATION

SEC. 131. Not less than 42 months after the date of enactment of the "Rehabilitation Comprehensive Services and Developmental Disabilities Amendments of 1978", the Secretary shall submit to the Congress an evaluation of the programs conducted under this part. Such evaluation shall be conducted by persons other than persons immediately responsible for administration of such programs. Such evaluation shall include, but not be limited to—

(1) an examination of the comparability of vocational rehabilitation services provided under this part to services provided to other handicapped individuals under section 101; and

(2) the extent to which services provided under this part have been made available to all handicapped American Indians residing on reservations wherein the tribal organization has been approved for a grant under this part.

## TITLE II—RESEARCH AND TRAINING

### DECLARATION OF PURPOSE

SEC. 200. The purpose of this title is to authorize Federal assistance [to State and public or nonprofit agencies and organizations] to—

(a) plan and conduct research, demonstrations, and related activities in the rehabilitation of handicapped individuals, and

(b) plan and conduct courses of training and related activities designed to provide increased numbers of trained rehabilitation personnel, to increase the levels of skills of such personnel, and to develop improved methods of providing such training.

### AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) In order to make grants and contracts to carry out the purposes of this title, there is authorized to be appropriated:

(1) For the purpose of carrying out section 202 of this title, \$25,000,000 each for the fiscal years ending June 30, 1974, and June 30,

1975, \$32,000,000 for the fiscal year ending June 30, 1976, [and] \$30,000,000 for the fiscal years ending September 30, 1977, and September 30, 1978, \$40,000,000 for the fiscal year ending September 30, 1979 \$46,000,000 for the fiscal year ending September 30, 1980, \$53,000,000 for the fiscal year ending September 30, 1981, \$60,000,000 for the fiscal year ending September 30, 1982, and \$69,000,000 for the fiscal year ending September 30, 1983; and there is further authorized to be appropriated for such purpose for each such year such additional sums as the Congress may determine to be necessary. [Of the sums appropriated under this paragraph, 20 per centum and 25 per centum of the amounts appropriated in the first and second such fiscal years, respectively, and 25 per centum of the amounts appropriated in each succeeding fiscal year shall be available only for the purpose of carrying out activities under section 202 (b) (2).]

(2) For the purpose of carrying out section 203 of this title, \$27,700,000 each for the fiscal years ending June 30, 1974, and June 30, 1975, \$32,000,000 for the fiscal year ending June 30, 1976, \$25,000,000 for the fiscal year ending September 30, 1977, [and] \$30,000,000 for the fiscal year ending September 30, 1978, \$35,000,000 for the fiscal year ending September 30, 1979, \$40,000,000 for the fiscal year ending September 30, 1980, \$46,000,000 for the fiscal year ending September 30, 1981, \$52,000,000 for the fiscal year ending September 30, 1982, and \$60,000,000 for the fiscal year ending September 30, 1983; and there is further authorized to be appropriated for such purpose for each such year such additional sums as the Congress may determine to be necessary.

(b) Funds appropriated under this title shall remain available until expended.

#### RESEARCH

SEC. 202. (a) The Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to make grants to and contracts with States and [public or nonprofit] *public or private* agencies and organizations, including institutions of higher education, to pay part of the cost of projects for the purpose of planning and conducting research, demonstrations, and related activities which bear directly on the development of methods, procedures, and devices to assist in the provision of vocational rehabilitation services to handicapped individuals, especially those with the most severe handicaps, under this Act. Such projects may include medical and other scientific, technical, methodological, and other investigations into the nature of disability, methods of analyzing it, and restorative techniques; studies and analyses of industrial, vocational, social, *psychiatric*, psychological; economic, and other factors affecting rehabilitation of handicapped individuals; special problems of homebound and institutionalized individuals; studies, analyses, and demonstrations of architectural and engineering design adapted to meet the special needs of handicapped individuals; and related activities (*including basic medical and scientific research*) which hold promise of increasing knowledge and improving methods in the rehabilitation of handicapped individuals and individuals with the most severe handicaps.

\* \* \* \* \*

(b) In addition to carrying out projects under subsection (a) of this section, the Secretary, through the Commissioner, and in coordination with other appropriate programs in the Department of Health, Education, and Welfare, is authorized to make grants to pay part or all of the cost of the following specialized research activities:

(1) Establishment and support of Rehabilitation Research and Training Centers to be operated in collaboration with institutions of higher education for the purpose of providing coordinated and advanced programs of research in rehabilitation and training of [rehabilitation research personnel] *rehabilitation research and other rehabilitation personnel*, including, but not limited to, graduate training.

\* \* \* \* \*

(2) Establishment and support of Rehabilitation Engineering Research Centers to (A) develop innovative methods of applying advanced medical technology, scientific achievement, and [psychological] *psychiatric, psychological* and social knowledge to solve rehabilitation problems through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, equipment, and devices suitable for solving problems in the rehabilitation of handicapped individuals and for reducing environmental barriers, and to (B) cooperate with State agencies designated pursuant to section 101 in developing systems of information exchange and coordination to promote the prompt utilization of engineering and other scientific research to assist in solving problems in the rehabilitation of handicapped individuals.

\* \* \* \* \*

(6) *Conduct of a research program concerning the use of existing telecommunications systems (including telephone, television, satellite, and radio, and other similar systems) which have the potential for substantially improving service delivery methods, and the development of appropriate programming to meet the particular needs of handicapped individuals.*

\* \* \* \* \*

#### TRAINING

#### SEC. 203.

\* \* \* \* \*

(b) In making such grants or contracts, funds made available for any year will be utilized to provide a balanced program of assistance to meet the medical, vocational, and other personnel training needs of both public and private rehabilitation programs and institutions, to include projects in rehabilitation medicine, rehabilitation nursing, rehabilitation counseling, rehabilitation social work, *rehabilitation psychiatry*, rehabilitation psychology, physical therapy, occupational therapy, speech pathology and audiology, workshop and facility administration, prosthetics and orthotics, specialized personnel in providing services to blind and deaf individuals, recreation for ill and handicapped individuals, and other fields contributing to the rehabilitation of handicapped individuals, including homebound and institutionalized individuals and handicapped individuals with limited Eng-

lish-speaking ability. No grant shall be made under this section for furnishing to an individual any one course of study extending for a period in excess of four years.

(c) *The Secretary shall measure and evaluate the impact of the training programs authorized by this section, shall determine training needs for personnel necessary to provide services to handicapped individuals, and shall develop a longterm rehabilitation manpower plan designed to target resources on areas of personnel shortage.*

#### INTERPRETER SERVICES

*SEC. 204. (a) The Secretary, through the Office for Handicapped Individuals in the Office of Human Development Services (hereinafter referred to as the "Office for Handicapped Individuals"), may establish not more than twelve programs under this section for the purpose of training a sufficient number of interpreters to meet the communications needs of deaf individuals. Such programs shall be established at locations throughout the Nation which are designed to provide for the most efficient delivery of interpreter services.*

(b) (1) *The interpreter training programs specified in paragraph (2) shall be eligible to serve as base centers for purposes of providing services under this section, upon meeting the requirements established in this section.*

(2) *The programs referred to in paragraph (1) are the interpreter training programs maintained at the following institutions: Gallaudet College in Washington, District of Columbia; Saint Paul Technical Vocational Institute in Saint Paul, Minnesota; California State University in Northridge, California; Seattle Central Community College in Seattle, Washington; Delgado College in New Orleans, Louisiana; and the National Technical Institute for the Deaf in Rochester, New York.*

(c) *The Secretary may establish six additional centers which have ongoing operating programs for training interpreters and are so situated that they can provide training for individuals in States in geographic areas to insure that every part of the Nation is served.*

(d) *Any base center or additional center which desires to maintain a program under this section may submit an application to the Office for Handicapped Individuals. Such application shall be submitted in such form, and in accordance with such procedures, as the Secretary may require. Any such application shall—*

(1) *provide for the development of a five-year program which—*

(A) *demonstrates the capacity to provide interpreter services to deaf individuals in need of such services; and*

(B) *includes plans for the delivery of such services in specific areas of need designated by the Secretary; and*

(2) *contain such other information as the Secretary may require.*

(e) *The Office for Handicapped Individuals shall approve any application which meets the requirements of this section.*

(f) (1) *Any base center or additional center which maintains a program under this section may, in connection with such program, provide for the training or retraining of teachers who are involved in providing instruction to deaf individuals but who are not certified as*

teachers of deaf individuals. Short-term, in-service training may also be provided to teachers of deaf individuals.

(2) Interpreters who provide services required under the Education for All Handicapped Children Act of 1975 may be trained in any program maintained by a base center or additional center under this section, except that funds for such training shall be drawn from funds appropriated under the Education for all Handicapped Children Act.

(g) Any base center or additional center maintaining a program under this section may provide for the establishment and operation of satellite centers for the training of interpreters, upon a determination that such satellite centers are necessary or appropriate for the efficient delivery of interpreter services to deaf individuals in need of such services.

(h) Any interpreter trained in any program maintained by a base center or additional center under this section shall be required to meet minimum standards established in the Registry for Interpreters of the Deaf.

(i) There is authorized to be appropriated to carry out the provisions of this section \$8,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983.

#### REPORTS

SEC. [204] 205: There shall be included in the annual report to the Congress required by section 404 a full report on the research and training activities carried out under this title and the extent to which such research and training has contributed directly to the development of methods, procedures, devices, and trained personnel to assist in the provision of vocational rehabilitation services to handicapped individuals and those with the most severe handicaps under this Act.

#### DEFINITION

SEC. 206. For the purpose of this title, the term 'public' or 'private agencies or organizations' means any such agencies or organizations whether nonprofit or profitmaking.

### TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

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#### GRANTS FOR CONSTRUCTION OF REHABILITATION FACILITIES

SEC. 301. (a) For the purpose of making grants and contracts under this section for construction of rehabilitation facilities, initial staffing, and planning assistance, there is authorized to be appropriated such sums as may be necessary [for the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, September 30, 1977, and September 30, 1978] for each fiscal year ending prior to October 1, 1983. Amounts so appropriated shall remain available for expenditure with respect to construction projects funded or initial staffing grants made under this section prior to [October 1, 1980] October 1, 1985.

\* \* \* \* \*

VOCATIONAL TRAINING SERVICES FOR HANDICAPPED INDIVIDUALS

[SEC. 302. (a) For the purpose of making grants and contracts under this section, there is authorized to be appropriated such sums as may be necessary for the fiscal years ending June 30, 1974, June 30, 1976, September 30, 1977, and September 30, 1978.]

*Sec. 302. (a) For the purpose of making grants and contracts under this section, there is authorized to be appropriated such sums as may be necessary for each fiscal year ending prior to October 1, 1983.*

\* \* \* \* \*

SPECIAL PROJECTS AND DEMONSTRATIONS

SEC. 304. (a) [(1) For the purpose of making grants under this section for special projects and demonstrations (and research and evaluation connected therewith), there is authorized to be appropriated \$15,000,000 for the fiscal year ending June 30, 1974, \$17,000,000 for the fiscal year ending June 30, 1975, \$20,000,000 for the fiscal year ending June 30, 1976, and such sums as may be necessary for the fiscal years ending September 30, 1977, and September 30, 1978, and there is further authorized to be appropriated for such purposes for each such year such additional sums as the Congress may determine to be necessary.] (1) *For the purpose of making grants under this section for special projects and demonstrations (and research and evaluation connected therewith), there are authorized to be appropriated such sums as may be necessary for each fiscal year ending prior to October 1, 1983.*

\* \* \* \* \*

(b) The Secretary, subject to the provisions of section 306, shall make grants to States and public or nonprofit agencies and organizations for paying part or all of the cost of special projects and demonstrations (and research and evaluation in connection therewith) (1) for establishing [programs and facilities] and operating programs and the renovation and construction of facilities, where appropriate, for providing vocational rehabilitation services which hold promise of expanding or otherwise improving rehabilitation services to handicapped individuals (especially those with the most severe handicaps) including individuals with spinal cord injuries, older blind individuals, and deaf individuals, whose maximum vocational potential has not been reached, (2) for applying new types or patterns of services or devices (including opportunities for new careers for handicapped individuals or other individuals in programs servicing handicapped individuals), and (3) for operating programs (including renovation and construction of facilities, where appropriate) to demonstrate methods of making recreational activities fully accessible to handicapped individuals. Projects and demonstrations providing services to individuals with spinal cord injuries shall include provisions to—

\* \* \* \* \*

(f) *The Secretary, subject to the provisions of section 307, shall make grants to State and public nonprofit agencies and organizations for paying part or all of the cost of initiation of recreation programs to provide handicapped individuals with recreational activities to aid in the mobility and socialization of such individuals. The activities authorized to be assisted under this subsection may include, but are not limited to, scouting and camping, 4-H activities, sports, music, dancing, handicrafts, art, and homemaking. No grant may be made under the provisions of this subsection unless the agreement with respect to such grant contains provisions to assure that, to the extent possible, existing resources will be used to carry out the activities for which the grant is to be made, and that with respect to children the activities for which the grant is to be made will be conducted after school.*

NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

SEC. 305. (a) For the purpose of establishing and operating a National Center for Deaf-Blind Youths and Adults, there is authorized to be appropriated such sums as may be necessary for construction, which shall remain available until expended, and such sums as may be necessary for operations [for the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, September 30, 1977, and September 30, 1978] for each fiscal year ending prior to October 1, 1983.

\* \* \* \* \*

NATIONAL NETWORK OF SERVICES FOR DEAF INDIVIDUALS

SEC. 306. (a) *The Secretary shall establish a program under this section designed to provide for the establishment of information and referral centers, and interpreter referral centers for deaf individuals, in each State.*

(b) *From sums appropriated under this section for any fiscal year, each State shall be entitled to an amount which bears the same ratio to such sums as the number of deaf individuals residing in such State bears to the number of deaf individuals in all States.*

(c) *Any State which desires to receive funds under this section may submit an application to the Secretary. Such application shall be submitted in such form, at such times, and in accordance with such procedures, as the Secretary may require. Such application shall—*

(1) *provide assurances that such program will be operated throughout the State in areas specifically selected to provide central locations for the provision of services to deaf individuals;*

(2) *include a plan which describes, in sufficient detail, the manner in which information and referral services, and interpreter referral services, will be provided to deaf individuals;*

(3) *provide assurances that the State agency responsible for the program operated under this section will seek to enter into contractual or other arrangements, to the extent appropriate, with private nonprofit organizations comprised of deaf individuals (or private nonprofit organizations which have the primary purpose of providing assistance or services to deaf individuals) for the operation of such program; and*

(4) contain such other information as the secretary may require.

(d) The Secretary shall approve any application which meets the requirements of this section.

(e) (1) Interpreter referral services which are provided through any program operated under this section shall be designed to provide a pool of available interpreters for specific geographical areas. Such services may be made available to any public agency or private non-profit organization which is involved in the delivery of assistance or services to deaf individuals, in order to assist in the efficient delivery of such services.

(2) The costs of providing interpreter services may be defrayed by the referral center responsible for the provision of such services, during the first year in which such center is in operation. At the end of such period, agencies receiving such services through referrals made by the center shall reimburse the center for the cost of such services.

(f) Any interpreter who desires to participate in services provided under this section shall be required to meet minimum standards established in the Registry for Interpreters for the Deaf.

(g) Any funds allocated under this section for use by an interpreter referral center may be used only for the provision of interpreter services. Such funds shall not be used to defray administrative or related costs.

(h) No funds made available under this section may be used for the provision of assistance or services to deaf individuals who are receiving rehabilitation services as clients under any other provision of this Act.

(i) Funds made available under this section may be used for the purchase or rental of equipment necessary to provide assistance or services to deaf individuals.

(j) There is authorized to be appropriated to carry out the provisions of this section \$15,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983.

#### GENERAL GRANT AND CONTRACT REQUIREMENTS

SEC. [306] 307. (a) The provisions of this section shall apply to all projects approved and assisted under this title. The Secretary shall insure compliance with this section prior to making any grant or entering into any contract or agreement under this title, except projects authorized under section 302.

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### TITLE IV—ADMINISTRATION AND PROGRAM AND PROJECT EVALUATION

#### ADMINISTRATION

SEC. 400. (a) In carrying out his duties under this Act, the Secretary shall—

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(2) provide short-term training and instruction, in technical matters relating to vocational rehabilitation services, including

the establishment and maintenance of such research fellowships and traineeships, with such stipends and allowances (including travel and subsistence expenses) as he may deem necessary, except that no such training or instruction (or fellowship or scholarship) shall be provided any individual for any one course of study for a period in excess of four years, and such training, instruction, fellowship, and traineeships may be in the fields of rehabilitation medicine, rehabilitation nursing, rehabilitation counseling, rehabilitation social work, *rehabilitation psychiatry*, rehabilitation psychology, physical therapy, occupational therapy, speech pathology and audiology, prosthetics and orthotics, recreation for ill and handicapped individuals, and other specialized fields contributing to the rehabilitation of handicapped individuals; and

\* \* \* \* \*

AUTHORIZATION OF APPROPRIATIONS

SEC. 403. There is authorized to be appropriated for [the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, September 30, 1977, and September 30, 1978] *each fiscal year ending prior to October 1, 1983*, such sums as the Secretary may require, but not to exceed an amount equal to one-half of 1 percentum of the funds appropriated under title, I, II, and III of this Act or \$1,000,000, whichever is greater, to be available to conduct program and project evaluations as required by this title.

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SECRETARIAL RESPONSIBILITIES

SEC. 405.

\* \* \* \* \*

[(d) There are authorized to be appropriated for carrying out this section \$500,000 each for the fiscal years ending June 30, 1974, and June 30, 1975, \$600,000 for the fiscal year ending June 30, 1976, \$600,000 for the fiscal years ending September 30, 1977, and September 30, 1978.]

*(d) There are authorized to be appropriated for carrying out this section \$600,000 for each fiscal year ending prior to October 1, 1983.*

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TITLE V—MISCELLANEOUS

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ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

[SEC. 502. (a) There is established within the Federal Government the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the "Board") which shall be composed of the heads of each of the following departments or agencies (or their designees whose positions are Executive Level IV or higher) :

- [(1) Department of Health, Education, and Welfare;
- [(2) Department of Transportation;
- [(3) Department of Housing and Urban Development;
- [(4) Department of Labor;
- [(5) Department of the Interior;
- [(6) Department of Defense;
- [(7) General Services Administration;
- [(8) Veterans' Administration.

The Secretary of Health, Education, and Welfare shall be the Chairman of the Board, and the Board shall appoint, upon recommendation of the Secretary, a Consumer Advisory Panel, a majority of the members of which shall be handicapped individuals, to provide guidance, advice, and recommendations to the Board in carrying out its functions.]

*SEC. 502. (a) (1) There is established within the Federal Government the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the "Board" which shall be composed as follows:*

*(A) Six members shall be appointed by the President from among members of the general public of whom five shall be handicapped individuals.*

*(B) The remaining members shall be the heads of each of the following departments or agencies (or their designees whose positions are executive level IV or higher):*

- (i) Department of Health, Education, and Welfare.*
- (ii) Department of Transportation.*
- (iii) Department of Housing, and Urban Development.*
- (iv) Department of Labor.*
- (v) Department of the Interior.*
- (vi) Department of Defense.*
- (vii) General Services Administration.*
- (viii) Veterans' Administration.*
- (ix) United States Postal Service.*

*The President shall appoint, from among the public members who are handicapped individuals, the first Chairman of such Board who shall serve for a term of not more than two years; thereafter, the Chairman shall be elected by a vote of a majority of the Board for a term of one year.*

*(2) (A) The term of office of each appointed member of the Board shall be three years, except that (i) the members first taking office shall serve, as designated by the President at the time of appointment, two for a term of one year, two for a term of two years, and two for a term of three years, and (ii) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.*

*(B) No individual appointed under paragraph (1)(A) of this subsection who has served as a member of the Board may be reappointed to the Board more than once unless such individual has not served on the Board for a period of two years prior to the effective date of such individual's appointment.*

*(3) (A) Members of the Board who are not regular fulltime employees of the United States shall, while serving on the business of the Board, be entitled to receive compensation at rates fixed by the*

*President, but not to exceed the daily rate prescribed for GS-18 under section 5332 of title 5, United States Code, including traveltime, for each day they are engaged in the performance of their duties as members of the Board; and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.*

*(B) Members of the Board who are employed by the Federal Government shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.*

*(C) For any matter upon which a vote of the Board is taken, any vote by a member specified in paragraph (1)(B) of this subsection shall be counted as one-half of one vote and any vote by a member appointed by the President shall be counted as one vote.*

*(b) It shall be the function of the Board to: [(1) insure compliance with the standards prescribed by the General Services Administration, the Department of Defense, and the Department of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968 (Public Law 90-480), as amended by the Act of March 5, 1970 (Public Law 91-205);] (1) insure compliance with the standards prescribed pursuant to the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968, (including the application of that Act to the United States Postal Service) including but not limited to enforcing all standards under that Act, and insuring that all waivers and modifications of standards are based upon findings of fact and are not inconsistent with the provisions of such Act and this section; (2) investigate and examine alternative approaches to the architectural, transportation, and attitudinal barriers confronting handicapped individuals, particularly with respect to public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation whether interstate, foreign, intrastate, or local), and residential and institutional housing; (3) determine what measures are being taken by Federal, State, and local governments and by other public or nonprofit agencies to eliminate the barriers described in clause (2) of this subsection; (4) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of the General Services Administration, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968; (5) make to the President and to Congress reports which shall describe in detail the results to its investigations under clauses (2) and (3) of this subsection; [and] (6) make to the President and to the Congress such recommendations for legislation and administration as it deems necessary or desirable to eliminate the barriers described in clause (2) of this subsection; and (7) sue and be sued in its own name, and be represented by its own legal counsel, in all Federal, State, and local courts; (8) establish minimum guidelines and requirements for the standards issued pursuant to the Act of August 12, 1968, as amended, commonly known as the Architectural Barriers Act of 1968, and (9) insure that public conveyances, including rolling stock, are readily accessible to, and usable by, physically handicapped persons.*

(d) (1) In carrying out its functions under this Act, the Board shall, directly or through grants to [or contracts with] public or private nonprofit organizations *or contracts with private non-profit or for-profit organizations*, carrying out its functions under subsections (b) and (c) of this section, and shall conduct investigations, hold public hearings, and issue such orders as it deems necessary to insure compliance with the provisions of the Acts cited in subsection (b). [The] *Except as provided in paragraph (3) of subsection (e), the provisions of subchapter II of chapter 5, and chapter 7 of title 5, United States Code, shall apply to procedures under this section, and an order of compliance issued by the Board shall be a final order for purposes of judicial review. Any such order affecting any Federal department, agency, or instrumentality of the United States shall be final and binding on such department, agency, or instrumentality. An order of compliance may include the withholding or suspension of Federal funds with respect to any building or public conveyance or rolling stock found not to be in compliance with standards [prescribed pursuant to the Act cited in subsection (b) of this section] enforced under this section. Pursuant to chapter 7 of title 5, United States Code, any complainant or participant in a proceeding under this subsection may obtain review of a final order issued in such proceeding. The executive director shall have the authority, at the direction of the Board, to bring a civil action in the appropriate United States district court to enforce, in whole or in part, any final order of the Board under this subsection.*

(2) *The Board shall develop, in consultation and coordination with other concerned Federal departments and agencies and agencies within the Department of Health, Education, and Welfare, and provide appropriate technical assistance to any public or private activity, person, or entity affected by regulations prescribed pursuant to this title with respect to architectural and transportation barriers accessibility. Any funds appropriated to any such department or agency for the purpose of providing such assistance may be transferred to the Board for the purpose of carrying out this paragraph. The Board may arrange to carry out its responsibilities under this paragraph through such other departments and agencies for such periods as the Board determines is appropriate. In carrying out its technical assistance responsibilities under this paragraph, the Board shall establish a procedure to insure separation of its compliance and technical assistance responsibilities under this section.*

(e) (1) There shall be appointed by the Board an executive director and such other professional and clerical personnel as are necessary to carry out its functions under this Act. The Board is authorized to appoint as many hearing examiners as are necessary for proceedings required to be conducted under this section. The provisions applicable to hearing examiners appointed under section 3105 of title 5, United States Code, shall apply to hearing examiners appointed under this subsection.

(2) *The Executive Director shall exercise general supervision over all personnel employed by the Board (other than hearing examiners and their assistants). The Executive Director shall have final authority on behalf of the Board, with respect to the investigation of*

*alleged noncompliance in the issuance of formal complaints before the Board, and shall have such other duties as the Board may prescribe.*

*(3) For the purpose of this section, an order of compliance issued by a hearing examiner shall be deemed to be an order of the Board and shall be the final order for the purpose of judicial review.*

*(h) There are authorized to be appropriated for the purpose of carrying out the duties and functions of the Board under this section \$1,000,000 each for the fiscal years ending June 30, 1974, June 30, 1975, and \$1,500,000 for the fiscal year ending June 30, 1976, [and] \$1,500,000 for the fiscal years ending September 30, 1977 and September 30, 1978, and \$3,500,000 for fiscal year 1979 and each of the four succeeding fiscal years.*

#### REMEDIES AND ATTORNEY'S FEES

*SEC. 505. (a) (1) The remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), including the application of section 706 (f) through (k) (42 U.S.C. 2000e-5 (f) through (k)); shall be available, with respect to any complaint under section 501 of this Act, to any employee or applicant for employment aggrieved by the final disposition of such complaint, or by the failure to take final action on such complaint.*

*(2) The remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 shall be available to any person aggrieved by any act or failure to act by any recipient of Federal assistance or Federal provider of such assistance under section 504 of this Act.*

*(b) In any action or proceeding to enforce or charge a violation of a provision of this title, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.*

#### INTERAGENCY COORDINATING COUNCIL

*SEC. 506. There shall be established an Interagency Coordinating Council (hereinafter referred to in this section as the "Council") composed of the Secretary of Health, Education, and Welfare, the Secretary of Labor, the Attorney General, the Chairman of the United States Civil Service Commission (or successor authority), and the Chairman of the Architectural and Transportation Barriers Compliance Board. The Council shall have the responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication and inconsistencies among the operations, functions and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of the provisions of this title, and the regulations prescribed thereunder. On or before July 1 of each year, the Council shall transmit to the President and to the Congress a report of its activities, together with such recommendations for legislative or administrative changes as it concludes are desirable to further promote the purposes of this section.*

## TITLE VI—COMPREHENSIVE SERVICES FOR SEVERELY HANDICAPPED INDIVIDUALS

### PART A—GENERAL PROVISIONS

#### SHORT TITLE

SEC. 601. This title may be cited as the "Comprehensive Services for Severely Handicapped Individuals Act of 1978".

#### DEFINITIONS

SEC. 602. For purposes of this title:

(1) The term "severely handicapped individual" means an individual who has a mentally or physically handicapping condition or combination of such handicapping conditions which—

(A) is expected to continue indefinitely;

(B) indicates a need of life-long or extended duration for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services;

(C) requires the provision of comprehensive services because of significant functional limitations in at least two of the following life activities;

(i) self-care;

(ii) communication;

(iii) learning;

(iv) mobility; or

(v) capacity for independent living; and

(D) constitutes a substantial barrier to such individual's ability to function in society.

(2) (A) The term "nonprofit facility for severely handicapped individuals" means a facility for severely handicapped individuals which is owned and operated by one or more nonprofit 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.

(B) The term "nonprofit private institution of higher learning" means an institution of higher learning which is owned and operated by one or more nonprofit 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.

#### INDIVIDUALIZED WRITTEN PROGRAM

SEC. 603. (a) As a condition of receiving Federal funds under section 612, each State shall provide assurances to the Secretary that an individual written program is developed for each severely handicapped individual provided comprehensive services by the State. The Secretary shall prescribe regulations for the development of such individualized programs which are in accordance with the provisions of section 102 of this Act and regulations prescribed thereunder modified as may be appropriate to provide comprehensive services for severely handicapped individuals as defined in section 602 of this title.

(b) The Secretary shall prescribe procedures to insure that the individualized written program required under this section shall, for

*each individual, be coordinated with the individualized written rehabilitation program, habilitation plan, or education program for such individual required under section 102 of this Act, section 112 of the Developmental Disabilities Services and Facilities Construction Act, and sections 612 (4) and 614 (a) (5) of the Education of All the Handicapped Children Act of 1975, respectively.*

#### PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

*SEC. 604. (a) The Secretary shall require as a condition to a State receiving an allotment under section 164 and payments under section 612 for any fiscal year after the fiscal year ending September 30, 1979 that the State provide the Secretary satisfactory assurances that (1) the State has in effect a system to protect and advocate the rights of severely handicapped individuals, and (2) such system will (A) have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such individuals who are receiving services under this title within such State, and (B) is independent of any State agency that provides services under this title to such individuals.*

*(b) The Secretary shall take such action as may be necessary to insure that the States coordinate the system to protect and advocate the rights of such individuals with the system to protect and advocate the rights of persons with developmental disabilities required under section 113 of the Developmental Disabilities Services and Facilities Construction Act.*

*(c)(1) In order to assist States in developing and maintaining systems to meet the requirements of this section, the Secretary shall allot to the States the sums appropriated under paragraph (2) of this section in the same manner as funds are allotted under section 614 of this title and paid under section 612 of this title.*

*(2) In order to make payments of allotments under this subsection to carry out the purposes of this section there are authorized to be appropriated \$20,000,000 for the fiscal year ending September 30, 1979, \$20,000,000 for the fiscal year ending September 30, 1980, \$25,000,000 for the fiscal year ending September 30, 1981, \$25,000,000 for the fiscal year ending September 30, 1982, and \$25,000,000 for the fiscal year ending September 30, 1983.*

#### EMPLOYMENT OF HANDICAPPED INDIVIDUALS

*SEC. 605. As a condition of providing assistance under this title, the Secretary shall require that each recipient of assistance take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions required with respect to the employment of such individuals under the provisions of this Act which govern employment (1) by State rehabilitation agencies and rehabilitation facilities, and (2) under Federal contracts and subcontracts.*

#### ADMINISTRATION

*SEC. 606. In the administration of this title, the Secretary is authorized to apply any provision of title I of this Act, modified as necessary to meet the special needs of severely handicapped individuals, which is consistent with the provisions of this title.*

**PART B—STATE GRANTS FOR PROVISION OF COMPREHENSIVE SERVICES AND PLANNING FOR SEVERELY HANDICAPPED INDIVIDUALS**

**DECLARATION OF PURPOSE; AUTHORIZATION OF APPROPRIATIONS**

*SEC. 611. (a) The purpose of this title is to authorize grants to States to assist in developing and implementing comprehensive services for severely handicapped individuals.*

*(b) In order to carry out the provisions of this title, there are authorized to be appropriated \$110,000,000 for the fiscal year ending September 30, 1979, \$170,000,000 for the fiscal year ending September 30, 1980, \$230,000,000 for the fiscal year ending September 30, 1981, \$280,000,000 for the fiscal year ending September 30, 1982, and \$350,000,000 for the fiscal year ending September 30, 1983.*

*(c) (1) Not less than 30 per centum of the funds paid to a State under section 614 shall be used by such State for the purpose of making grants pursuant to section 617 of this Act for the support of funding, coordination, and development of projects and programs with respect to independent living and other programs services.*

*(2) The Secretary may waive all or part of such 30 per centum requirement specified in paragraph (1) if he determines, on the basis of evidence submitted by such State, that such State does not have and cannot feasibly use the funds required to be expended for the purposes specified in paragraph (1).*

**PAYMENTS TO STATES**

*SEC. 612. (a) From each State's allotment under this part for any fiscal year (including any additional allotments made to such State under section 614(b)), the Secretary shall pay to such State an amount equal to the Federal share of the cost of comprehensive services for severely handicapped individuals under the State plan approved under section 615, including expenditures for the administration of the State plan, except that the total of such payments to such State for such fiscal year may not exceed its total allotment under section 614, including any additional allotments made to such State under section 614(b) for such year. No payment shall be made in an amount which would result in a violation of the provisions of the State plan approved under section 615.*

*(b) The method of computing and paying amounts under subsection (a) shall be as follows:*

*(1) The Secretary shall, prior to the beginning of each calendar quarter or other period for payment which he prescribes by regulation, estimate the amount to be paid to each State under the provisions of subsection (a) for such quarter or period. Such estimate shall be based on such records and information furnished by the State as the Secretary may require, as well as any other investigation as the Secretary may find necessary.*

*(2) The Secretary shall pay in each calendar quarter or payment period, from the allotment available for each State, the amount estimated for such quarter or period under paragraph (1). The Secretary shall reduce or increase as the case may be such payment by any amount which he finds that his estimate of*

*the amount to be paid to the State for the prior quarter or payment period was greater or lesser than the amount which should have been paid to the State for such prior quarter or period under subsection (a). Payments shall be made—*

*(A) prior to audit or settlement by the General Accounting Office;*

*(B) through the disbursing facilities of the Treasury Department; and*

*(C) in such installments as the Secretary may determine.*

*(c) If the Secretary, after investigation, has reason to believe that any act (or failure to act) has occurred requiring action to withhold payments and after he has given the State agency so designated notice of opportunity for hearing pursuant to such section, payments under this section may be withheld, in whole or in part, pending corrective action or action based on such hearing.*

#### SCOPE OF COMPREHENSIVE SERVICES FOR SEVERELY HANDICAPPED INDIVIDUALS

*SEC. 613. Comprehensive services for severely handicapped individuals provided under this title are any goods or services as may be necessary to enhance the ability of a severely handicapped individual to live independently or to function in society and, if appropriate, secure and maintain appropriate employment. Such goods and services may include—*

*(1) those goods and services specified in paragraph (1) through (11) (especially paragraphs (3), (4), (6), (8), (10), and (11)) of section 103 (a) of this Act, to the extent such goods and services are appropriate to carry out the provisions of this title;*

*(2) physical, mental and psychotherapeutic services;*

*(3) recreational and leisure time activities; and*

*(4) preschool services, including physical therapy, development of language and communication skills, and general child development services.*

#### ALLOTMENT OF FUNDS

*SEC. 614. (a) From the sums appropriated for any fiscal year pursuant to section 611 (b) of this title, each State shall be allotted for payment under section 612 an amount which bears the same ratio to such sums as the population of such State bears to the population of all States, except that—*

*(1) each State shall be allotted no less than one-half of 1 per centum of the amounts made available under section 611 (b) for the fiscal year for which the allotment is made except that for purposes of this paragraph, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands; and*

*(2) Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands shall each be allotted not less than one-eighth of 1 per centum of the amounts made available under section 611 (b) for the fiscal year for which the allotment is made.*

(b) (1) *If by the end of the sixth month of the fiscal year for which sums have been appropriated under section 611 (b) the amount allotted to a State has not been paid to such State under such section because of such State's failure to qualify for such sums in accordance with the provisions of this title, the Secretary shall make reallocation of the total amounts not paid to States in an amount which bears the same ratio to the total amount to be reallocated as the population of each qualifying State bears to the population of all qualifying States.*

(2) *The Secretary may make available for reallocation in accordance with the provisions of paragraph (1) of this subsection such amounts paid in any fiscal year to any State under section 612 which he determines, after consultation with such State, will not be used by such State during such fiscal year for carrying out the provisions of this title.*

(3) *If the Secretary determines pursuant to paragraph (2) that a State will not use any of the amounts paid pursuant to section 612, such State shall not be eligible for reallocation of funds under paragraphs (1) or (2).*

(4) *Funds made available by the Secretary through reallocation pursuant to paragraph (1) or (2) of this subsection shall remain available for expenditure until the end of the fiscal year following the fiscal year in which such funds become available for reallocation.*

(c) *Whenever the State plan approved in accordance with section 615 provides for participation of more than one State agency in administering or supervising the administration of designated portions of the State plan, the State may apportion its allotment among such agencies in a manner which, to the satisfaction of the Secretary, is reasonably related to the responsibilities assigned to such agencies in carrying out the purposes of the State plan. Funds so apportioned to State agencies may be combined with other State or Federal funds authorized to be spent for other purposes, if the purposes of the State plan will receive proportionate benefit from the combination.*

(d) *Whenever the State plan approved in accordance with section 615 provides for cooperative or joint effort between States or between or among agencies, public or private, in more than one State, portions of funds allotted to one or more such cooperating States may be combined in accordance with the agreements between the agencies involved.*

#### ANNUAL STATE PLANS

*SEC. 615. (a) For each fiscal year in which a State desires to participate in the program authorized under this title, a State shall submit to the Secretary for approval a State plan to provide for a program of comprehensive services for severely handicapped individuals designed to enhance the ability of such severely handicapped individuals to function in society and, if appropriate, secure and maintain appropriate employment. Such plan shall be submitted consistent with procedures established by the Secretary with respect to State plans submitted under section 101 of this Act and pursuant to any additional regulations the Secretary may prescribe. Such plan shall be prepared and submitted in accordance with the provisions of sections 616 and 619, to the maximum extent feasible, in conjunction with the development and submission of the State plan prepared pursuant to section 101 of this Act.*

(b) *The State plan required under subsection (a) shall:*

(1) *designate the State agency or agencies administering the vocational rehabilitation plan pursuant to title I of this Act as the agency or agencies to administer the provisions of this title;*

(2) *describe the quality, scope, and extent of the comprehensive services being provided to severely handicapped individuals and specify the State's goals and plans with respect to the distribution of grants pursuant to the independent living and service programs established under section 617 of this title;*

(3) *provide assurances that comprehensive services will be provided only in accordance with the individualized written program required under section 603 (a) and describe the efforts undertaken to assure appropriate coordination and consultation in the preparation of such written programs with the plan and programs specified in section 603 (b);*

(4) *provide that special efforts will be undertaken to provide technical assistance to urban and rural poverty areas with respect to the provision of comprehensive services for severely handicapped individuals and describe such efforts;*

(5) (A) *provide assurances that efforts will be undertaken by the appropriate State agency or agencies to eliminate the inappropriate placement of severely handicapped individuals in institutions and to improve the quality of care provided by institutions providing services to severely handicapped individuals; and*  
(B) *describe the efforts undertaken by the State during the previous year with respect to such efforts;*

(6) *provide for the maximum utilization of all available resources, including—*

(A) *community education programs; and*

(B) *volunteers serving under the Domestic Volunteer Service Act of 1973 and through other appropriate voluntary organizations, so long as volunteer services supplement and do not provide substitutes for the services of paid employees;*

(7) *specify plans for maximizing the use of telecommunication systems, sensory and other technological aids and devices which have the potential for improving and providing comprehensive services for severely handicapped individuals;*

(8) *provide for the adequate staffing and support of the State Council on Severely Handicapped Individuals;*

(9) *contain such additional information and assurances as the Secretary finds necessary to carry out the provisions of this part;*

(10) *conform to such other requirements consistent with the purposes and provisions of this title as the Secretary by regulation may prescribe; and*

(11) *specify that the plan required under this section is in accordance with goals and timetables set forth in the long range plan required under section 616.*

(c) *The provisions of subsections (b), (c), and (d) of section 101 of this Act shall apply to any State plan submitted to the Secretary pursuant to this section.*

## LONG-RANGE PLAN

SEC. 616. (a) (1) *Within eighteen months of the date of enactment of this title, each State, as a condition of receipt thereafter of its allotment under this title, shall submit to the Secretary a long-range plan concerning the provision of appropriate services under this Act for all severely handicapped individuals residing within such State. Such long-range plan shall include goals and timetables for identifying and providing services under this title to all severely handicapped individuals residing within such State and plans for coordinating available public and private resources with programs and activities to be carried out under this title.*

(2) *As part of the annual State plan submitted under section 615 for the fiscal year ending September 30, 1981 and for each fiscal year thereafter, each State shall annually update its long-range plan submitted under paragraph (1).*

(b) (1) *From the funds allotted and paid to a State under section 614—*

(A) *not more than 10 per centum or \$60,000, whichever is the greater, for the fiscal year ending September 30, 1979, and*

(B) *not more than 6 per centum or \$35,000, whichever is the greater, for the fiscal year ending September 30, 1980, shall be used by each State for developing the long-range plan required under subsection (a) (1).*

(2) *From the funds allotted and paid to a State under section 614, not more than 6 per centum or \$35,000, whichever is the lesser, for the fiscal year ending September 30, 1981 and each succeeding fiscal year shall be used by each State for the purpose of updating the long-range plan as required under subsection (a) (2).*

## INDEPENDENT LIVING AND OTHER SERVICE PROGRAMS

SEC. 617. (a) *A State receiving payments under this title shall make grants to local public agencies, private nonprofit organizations, or tribal organizations of Indian tribes located on Federal and State reservations, for the establishment or operation of centers to provide services for severely handicapped individuals, such as independent living centers, designed to enable such individuals to secure and maintain employment or to enhance their ability to live independently or function in the society.*

(b) *In order to be eligible for a State grant under this section, an agency, organization, or tribal organization shall submit an application containing such information and assurances as shall be prescribed by such State agency, including assurances that such agency, organization, or tribal organization will provide services exclusively to severely handicapped individuals including—*

(1) *attendant care and training of personnel to provide such care;*

(2) *referral and counseling services with respect to attendant care;*

(3) *intake counseling to determine the need for specific services;*

- (4) *community group living arrangements;*
- (5) *education and training necessary for living in the community and participating in community activities;*
- (6) *housing and transportation referral and assistance;*
- (7) *surveys, directors, and other activities to identify appropriate housing and accessible transportation and provide housing referral, transportation and other support services;*
- (8) *health maintenance services;*
- (9) *peer counseling;*
- (10) *individual and group social and recreational activities;*
- and
- (11) *such other services as may be necessary and not inconsistent with the provisions of this title.*

#### FEDERAL SHARE; NONDUPLICATION

*SEC. 618. (a) (1) The Federal share of any allotment under this part may not exceed 80 per centum of the necessary cost thereof as determined by the Secretary, except that if the project is located in an urban or rural poverty area, the Federal share may not exceed 90 per centum of the project's necessary costs as so determined.*

*(2) The non-Federal share of the cost of any project assisted by a grant or allotment under this title may be provided in kind.*

*(b) In determining the amount of any State's Federal share of the expenditures incurred by it under a State plan approved under section 615, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any provision of law other than section 614, and (2) the percentage of non-Federal funds required to be expended in programs similar to the programs established under this title.*

#### STATE COUNCILS ON SEVERELY HANDICAPPED INDIVIDUALS

*SEC. 619. (a) (1) Each State which receives assistance under this part shall establish a State Council on Severely Handicapped Individuals which will serve as an advocate for severely handicapped individuals. The members of a State's Council on Severely Handicapped Individuals shall be appointed by the Governor of such State from among the residents of that State. The Governor of each State shall make appropriate provisions for the rotation of membership on the Council of his respective State. Each State Council on Severely Handicapped Individuals shall at all times include in its membership representatives of the principal State agencies, local agencies, and non-governmental agencies and groups concerned with the provision of services to severely handicapped individuals in that State. At least one-half of the membership of such State Council shall consist of individuals who—*

*(A) are severely handicapped individuals or the parents or guardians of such individuals;*

*(B) are generally representative of the population of severely handicapped individuals in such State; and*

(C) are not officers or employees of any State agency or any other entity which receives funds or provides services under this part.

(2) Not more than 25 percent of the members of a State Council appointed pursuant to paragraph (1) may also serve as members of that State's State Planning Council established under section 137 of the Developmental Disabilities Services and Facilities Construction Act. The Chairman of such State Planning Council or his designee shall serve as a non-voting ex-officio member of the Council established under this section.

(b) Each State Council on Severely Handicapped Individuals shall—

(1) advise regarding, supervise the development of, and approve the State plan required by this part;

(2) monitor and evaluate the implementation of such State plan;

(3) to the maximum extent feasible, review and comment on all State plans in the State which relate to programs affecting severely handicapped individuals prior to the submission of such State plan to the Secretary for approval;

(4) submit to the Secretary, through the Governor, such periodic reports on its activities as the Secretary may reasonably require;

(5) submit to the Federal Council on Handicapped Individuals, through the Governor, recommendations to assist the Federal Council on Handicapped Individuals concerning (A) the development of a national policy to address the needs of severely handicapped individuals and (B) the development of a plan to implement such policy; and

(6) coordinate its activities with the State Planning Council established under section 137 of the Developmental Disabilities Services and Facilities Construction Act.

(c) Each State receiving assistance under this part shall provide adequate staff and support for the State Council on Severely Handicapped Individuals to insure that the Council is able to carry out the provisions of this Act.

#### **PART C—DEMONSTRATIONS AND MODELS FOR CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF SEVERELY HANDICAPPED INDIVIDUALS**

##### **DEVELOPMENT AND DEMONSTRATION OF MODELS FOR CENTERS AND SERVICES**

SEC. 621. (a) The Secretary is authorized and directed to provide financial assistance by grants to or contracts with public agencies or private nonprofit institutions for the development and demonstration of models for centers and the provision of services to meet the special needs of severely handicapped individuals. Such models shall include—

(1) the establishment and operation of training centers to create and utilize the best methods of appraising and developing the employment potential of severely handicapped individuals, including programs to—

(A) provide training and continuing education for habilitation and rehabilitation personnel and other employment-

*oriented personnel with respect to the employment of severely handicapped individuals;*

*(B) develop model procedures for testing and evaluating the employment potential of severely handicapped individuals;*

*(C) develop model training programs to teach skills to severely handicapped individuals which will lead to appropriate employment;*

*(D) develop new approaches and techniques for the placement and followup of severely handicapped individuals in employment; and*

*(E) provide information services regarding education, training, employment, and placement for severely handicapped individuals.*

*(2) the establishment and operation of models for independent living and community service centers for severely handicapped individuals, including—*

*(A) a continuum of alternative living arrangements for severely handicapped individuals, which may include community-based group homes, other community living arrangements, or centers designed to enhance the ability of such individuals to function in society, including services for adults residing in such communities who are incapable of caring for themselves without help or supervision;*

*(B) appropriate specialized, generic, and interdisciplinary services, (which may include home support services), transportation, communication, recreation and related services.*

*(3) models of services for preschool age severely handicapped children, including—*

*(A) early intervention, parent counseling, infant stimulation, early identification, diagnosis, and evaluation of severely handicapped children up to the age of three;*

*(B) such physical therapy, language development, pediatric, nursing, and psychiatric services as are necessary for such children; and*

*(C) appropriate services for the parents of such children, including psychiatric services, parent counseling, and training.*

*(b) No grant or contract may be made under this section unless an application thereof is submitted to and approved by the Secretary. Such an application shall be submitted in such form and such manner and contain such information as the Secretary may require. In determining whether to approve an application under this section, the Secretary shall consider the needs of the severely handicapped individuals in the area to be served by the applicant and the capability of the applicant to develop and apply new methods and techniques.*

*(c) Pursuant to regulations which the Secretary shall prescribe, funds under this section may be used to cover part of the cost of renovation or modernization of facilities to be used in connection with an activity assisted under a grant or contract made under this section.*

*(d) The Secretary shall take such action as may be necessary to coordinate the program of models for independent living authorized*

under subsection (a) (2) with the special programs for independent living authorized under section 121(a) of the Rehabilitation Act of 1973.

(e) (1) There are authorized to be appropriated \$60,000,000 for the fiscal year ending September 30, 1979, \$85,000,000 for the fiscal year ending September 30, 1980, \$115,000,000 for the fiscal year ending September 30, 1981, \$140,000,000 for the fiscal year ending September 30, 1982, and \$140,000,000 for the fiscal year ending September 30, 1983; to carry out the provisions of this section.

(2) Not more than ten per centum of the funds appropriated for any fiscal year under this subsection shall be used for renovation or modernization of facilities pursuant to subsection (c)."

#### RESEARCH, TRAINING, AND EVALUATION

SEC. 622. (a) The Secretary, through the Commissioner, is authorized to make grants to and contracts with public agencies and non-profit private organizations, and academic institutions to pay part of the cost of projects for planning and conducting research, demonstrations, studies and related activities to develop methods, procedures, and devices to assist in the provision of comprehensive services for severely handicapped individuals. The Commissioner shall coordinate grants and contracts under this subsection with grants and contracts under other appropriate programs of the Department of Health, Education, and Welfare.

(b) The Secretary, through the Commissioner, is authorized to make grants to and contracts with States, public or nonprofit agencies and organizations and academic institutions to pay part of the cost of projects for training, traineeships, and related activities designed to assist in increasing the quality of training, and numbers of personnel trained to provide comprehensive services for severely handicapped individuals and perform such other functions as may be necessary to the development of such comprehensive services. The Commissioner shall coordinate grants and contracts made under this subsection with grants and contracts made under other appropriate programs of the Department of Health, Education, and Welfare.

(c) (1) The Secretary shall provide for the continuing evaluation of all programs and activities conducted pursuant to this title. The evaluation process shall include an examination of—

(A) the cost of all programs and activities in relation to their effectiveness in achieving stated goals;

(B) the impact of all programs and activities on the lives of severely handicapped individuals; and

(C) the implications of all programs and activities under this title for related programs.

(2) The Secretary is authorized to require such information as may be needed from recipients of assistance under this title and to conduct, either directly or through grants or contracts, evaluation studies to carry out his duties under subsection (a) of this section.

(d) The Secretary shall report to Congress annually concerning the conditions affecting severely handicapped individuals. The report shall include—

(1) the results of the evaluations required under subsection (c);

(2) a report on the level of accomplishment in research and development;

(3) comments on the quality of services received by severely handicapped individuals; and

(4) recommendations for future research, training, evaluation, services, procedures, and legislation needed to improve the lives of severely handicapped individuals.

(e) (1) There are authorized to be appropriated \$12,000,000 for the fiscal year ending September 30, 1979, \$15,000,000 for the fiscal year ending September 30, 1980, \$18,000,000 for the fiscal year ending September 30, 1981, \$21,000,000 for the fiscal year ending September 30, 1982, and \$24,000,000 for the fiscal year ending September 30, 1983, to carry out the provisions of this section.

(2) Of the amounts appropriated under this subsection in each fiscal year, not more than two per centum shall be made available to carry out evaluations under subsection (c) with respect to programs carried out under Part B of this title.

## Mental Retardation Facilities and Community Health Centers Construction Act of 1963

(As amended by Public Laws 90-170, 91-517, and 94-103)

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963".*

### TITLE I—SERVICES AND FACILITIES FOR THE MEN- TALLY RETARDED AND PERSONS WITH OTHER DE- VELOPMENTAL DISABILITIES

#### PART A—GENERAL PROVISIONS

##### SHORT TITLE

【SEC. 101. This title may be cited as the "Developmental Disabilities Services and Facilities Construction Act".】

##### SHORT TITLE

*SEC. 101. This title may be cited as the Developmental Disabilities Assistance and Bill of Rights Act.*

##### DEFINITIONS

SEC. 102. For purposes of this title:

\* \* \* \* \*

【(7) The term "developmental disability" means a disability of person which—

【(A) (i) is attributable to mental retardation, cerebral palsy, epilepsy, or autism;

[(ii) is attributable to any other condition of a person found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons or requires treatment and services similar to those required for such persons; or

[(iii) is attributable to dyslexia resulting from a disability described in clause (i) or (ii) of this subparagraph;

[(B) originates before such person attains age eighteen;

[(C) has continued or can be expected to continue indefinitely; and

[(D) constitutes a substantial handicap to such person's ability to function normally in society.]

(7) *The term "developmental disability" means a severe chronic disability of a person which—*

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

(B) *is manifested before such person attains age twenty-two;*

(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;*

(vii) *economic self-sufficiency; and*

(E) *reflects the need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services to be individually planned and coordinated during the lifetime of such person or for an extended period of time.*

\* \* \* \* \*

**NATIONAL ADVISORY COUNCIL ON SERVICES AND FACILITIES FOR THE DEVELOPMENTALLY DISABLED**

[SEC. 108. (a) (1) There is established a National Advisory Council on Services and Facilities for the Developmentally Disabled (hereinafter in this section referred to as the "Council") which shall consist of nine ex officio members and sixteen members appointed by the Secretary. The ex officio members of the Council are the Deputy Commissioner of the Bureau of Education for the Handicapped, the Commissioner of Rehabilitation Services Administration, the Administrator of the Social and Rehabilitation Service, the Director of the National Institute of Child Health and Human Development, the Director of the National Institute of Neurological Disease and Stroke, the Director of the National Institute of Mental Health, and three other representatives of the Department of Health, Education, and Welfare selected by the Secretary. The appointed members of the Council shall be selected from persons who are not full-time employees of the United States and shall be selected without regard to

the provisions of title 5, United States Code, governing appointments in the competitive service. The appointed members shall be selected from advocates in the field of services to persons with developmental disabilities, including leaders in State or local government, in institutions of higher education, and in organizations which have demonstrated advocacy on behalf of such persons. At least five such members shall be representatives of State or local public or nonprofit private agencies responsible for services to persons with developmental disabilities, and at least five other such members shall be persons with developmental disabilities or the parents or guardians of such persons.

[(2) The Secretary shall from time to time designate one of the appointed members to serve as Chairman of the Council.

[(3) The Council shall meet at least twice a year.

[(4) The Federal Advisory Committee Act shall not apply with respect to the duration of the Council.

[(b) Each appointed member of the Council shall hold for a term of four years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. An individual who has served as a member of the Council may not be reappointed to the Council before two years has expired since the expiration of his last term of office as a member.

[(c) It shall be the duty and function of the Council to—

[(1) advise the Secretary with respect to any regulations promulgated or proposed to be promulgated by the Secretary in the implementation of the provisions of this title;

[(2) study and evaluate programs authorized by this title to determine their effectiveness in carrying out the purposes for which they were established;

[(3) monitor the development and execution of this title and report directly to the Secretary any delay in the rapid execution of this title;

[(4) review grants made under this title and advise the Secretary with respect thereto; and

[(5) submit to the Congress annually an evaluation of the efficiency of the administration of the provisions of this title.

[(d) The Council is authorized to engage such technical assistance as may be required to carry out its functions, and the Secretary shall, in addition, make available to the Council such secretarial, clerical, and other assistance and such statistical and other pertinent data prepared by or available to the Department of Health, Education, and Welfare as it may require to carry out such functions.

[(e) Appointed members of the Council, while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive compensation at rates fixed by the Secretary, but at rates not exceeding the daily equivalent of the rate provided for GS-18 of the General Schedule for each day of such service (including travel time), and, while so serving away from their homes or regular places of business, all of the members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.]

## SPECIAL REPORT REQUIRED

SEC. 108. (a) *The Secretary shall make a special report to the Congress concerning the impact of the modification of the definition of "developmentally disabled" contained in section 102(7) of this Act made by section 301 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978. The report shall include—*

(1) *an analysis of the impact of the modification of such definition on all categories of persons with developmental disabilities receiving services under this Act prior to the date of enactment of such modification, and for each of the two succeeding fiscal years, including—*

(A) *the number of persons with developmental disabilities in all categories served before and after the date of enactment of such modification; and*

(B) *the amounts expended under this Act for all categories of persons with developmental disabilities before and after the date of enactment of such modification; and*

(2) *an assessment, evaluation, and comparison of services provided to persons with developmental disabilities provided prior to the date of enactment of such modification and for each of the two succeeding fiscal years.*

(b) *The Secretary shall submit the report required under subsection (a) within 30 months of the date of enactment of this section.*

\* \* \* \* \*

## EVALUATION SYSTEM

SEC. 110. (a) [The Secretary, in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled, shall] *The Secretary shall* within two years of the date of the enactment of the Developmentally Disabled Assistance and Bill of Rights Act develop a comprehensive system for the evaluation of services provided to persons with developmental disabilities through programs (including residential and nonresidential programs) assisted under this title. Within six months after the development of such a system, the Secretary shall require, as a condition to the receipt of assistance under this title, that each State submit to the Secretary, in such form and manner as he shall prescribe, a time-phased plan for the implementation of such a system. Within two years after the date of the development of such a system, the Secretary shall require, as a condition to the receipt of assistance under this title, that each State provide assurances satisfactory to the Secretary that the State is using such a system.

\* \* \* \* \*

(d) [The Secretary, in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled, may] *The Secretary may* makes grants to public and private nonprofit entities and may enter into contracts with individuals and public and nonprofit private entities to assist in developing the evaluation to be developed under subsection (a), except that such a grant or contract may not be entered into with entities or individuals who have any

financial or other direct interest in any of the programs to be evaluated under such a system. Contracts may be entered into under this subsection without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

\* \* \* \* \*

#### PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

SEC. 113. (a) The Secretary shall require as a condition to a State receiving an allotment under part C for a fiscal year ending before October 1, 1977, that the State provide the Secretary satisfactory assurances that not later than such date (1) the State shall have in effect a system to protect and advocate the rights of persons with development disabilities, and (2) such system will (A) have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such persons who are receiving treatment, services, or habilitation within the State, and (B) be independent of any State agency which provides treatment, services, or habilitation to persons with developmental disabilities. The Secretary may not make an allotment under part C to a State for a fiscal year beginning after September 30, 1977, unless the State has in effect a system described in the preceding sentence.

(b) (1) To assist States in meeting the requirements of subsection (a), the Secretary shall allot to the States the sums appropriated under paragraph (2). Such allotments shall be made in accordance with subsection (a) (1) (A) and (d) of section 132.

(2) For allotments under paragraph (1), there are authorized to be appropriated \$3,000,000 for fiscal year 1976, \$3,000,000 for fiscal year 1977, [and] \$3,000,000 for fiscal year 1978[.], and \$12,000,000 for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years.

#### PART B—UNIVERSITY AFFILIATED FACILITIES

##### SUBPART 1—DEMONSTRATION AND TRAINING GRANTS

\* \* \* \* \*

##### AUTHORIZATION OF APPROPRIATIONS

SEC. 123. (a) For the purpose of making grants under section 121 there are authorized to be appropriated \$15,000,000 for fiscal year 1976, \$18,000,000 for fiscal year [1977, and] 1977, \$21,000,000 for fiscal year 1978 [.] , \$12,000,000 for the fiscal year ending September 30, 1979, \$14,000,000 for the fiscal year ending September 30, 1980, \$16,000,000 for the fiscal year ending September 30, 1981, and \$18,000,000 for each of the fiscal years ending September 30, 1982, and September 30, 1983.

\* \* \* \* \*

##### Subpart 2—Construction

##### PROJECTS AUTHORIZED

##### AUTHORIZATION OF APPROPRIATIONS

SEC. 127. For the purpose of making payments under grants under section 125, there are authorized to be appropriated \$3,000,000 for

fiscal year 1976, \$3,000,000 for fiscal year [1977, and] 1977, \$3,000,000 for fiscal year 1978[.], and \$3,000,000 for each of the succeeding fiscal years ending prior to October 1, 1983.

**PART C—GRANTS FOR PLANNING, PROVISION OF SERVICES, AND CONSTRUCTION AND OPERATION OF FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES**

**AUTHORIZATION OF APPROPRIATIONS FOR ALLOTMENTS**

SEC. 131. For allotments under section 132, there are authorized to be appropriated \$40,000,000 for fiscal year 1976, \$50,000,000 for fiscal year 1977, [and] \$60,000,000 for fiscal year 1978[.], \$65,000,000 for the fiscal year ending September 30, 1979, \$70,000,000 for the fiscal year ending September 30, 1980, \$75,000,000 for the fiscal year ending September 30, 1981, \$75,000,000 for the fiscal year ending September 30, 1982, and \$75,000,000 for the fiscal year ending September 30, 1983.

**STATE ALLOTMENTS**

SEC. 132. (a) (1) (A) In each fiscal year, the Secretary shall, in accordance with regulations and this paragraph, allot the sums appropriated for such year under section 131 among the States on the basis of—

- (i) the population,
- (ii) the extent of need for services and facilities for persons with developmental disabilities, and
- (iii) the financial need,

of the respective States. Sums allotted to the States under this section shall be used in accordance with approved State plans under section 133 for the provision under such plans of services and facilities for persons with developmental disabilities.

(B) (i) Except as provided by clause (ii)—

(I) the allotment of the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands under subparagraph (A) of this paragraph in any fiscal year shall not be less than \$50,000; and

(II) the allotment of each other State in any fiscal year shall not be less than the greater of [\$150,000,] \$250,000, or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending June 30, 1974.

\* \* \* \* \*

**STATE PLANS**

SEC. 133. (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.

(b) In order to be approved by the Secretary under this section, a State plan for the provision of services and facilities for persons with developmental disabilities must—

\* \* \* \* \*

(29) provide for fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions to carry out the plan described in paragraph (20) (A), 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; [and]

(30) contain such additional information and assurances as the Secretary may find necessary to carry out the provisions and purposes of this part[.]; and

(31) provide assurances that the State has undertaken affirmative steps to assure the participation in programs under this Act of individuals generally representative of the population of the State, with particular attention to the participation of members of minority groups.

\* \* \* \* \*

#### STATE PLANNING COUNCILS

[SEC. 137. (a) Each State which receives assistance under this part shall establish a State Planning Council which will serve as an advocate for persons with developmental disabilities. The members of a State's Planning Council shall be appointed by the Governor of such State. Each State Planning Council shall at all times include in its membership representatives of the principal State agencies, local agencies, and nongovernmental agencies, and groups concerned with services to persons with developmental disabilities. At least one-third of the membership of such a Council shall consist of persons with developmental disabilities, or their parents or guardians, who are not officers of any entity, or employees of any State agency or of any other entity, which receives funds or provides services under this part.]

*SEC. 137. (a) Each State which receives assistance under this part shall establish a State Planning Council which will serve as an advocate for persons with developmental disabilities. The members of a State's State Planning Council shall be appointed by the Governor of such State from among the residents of that State. The Governor of each State shall make appropriate provisions for the rotation of membership on the Council of his respective State. Each State Planning Council shall at all times include in its membership representatives of the principal State agencies, local agencies, and nongovernmental agencies and groups concerned with services to persons with developmental disabilities in that State. At least one-half of the membership of such a Council shall consist of persons who—*

(1) *are persons with developmental disabilities or the parents or guardians of such persons; and*

(2) *are not officers or employees of any State agency or any other entity which receives funds or provides services under this part.*

(b) *The State Planning Council shall—*

(1) [supervise] *advise regarding and supervise the development of and approve the State plan required by this part;*

(2) *monitor and evaluate the implementation of such State plan;*

(3) to the maximum extent feasible, review and comment on all State plans in the State which relate to programs affecting persons with developmental disabilities, [and]

(4) *coordinate its activities with the State Council on Severely Handicapped Individuals established in the State under section 619 of the Comprehensive Services for Severely Handicapped Individuals Act of 1978, and*

[(4)] (5) submit to the Secretary, through the Governor, such periodic reports on its activities as the Secretary may reasonably request.

(c) Each State receiving assistance under this part shall provide for the assignment to its State Planning Council of personnel adequate to insure that the Council has the capacity to fulfill its responsibilities under subsection (b).

\* \* \* \* \*

## PART D—SPECIAL PROJECT GRANTS

### GRANT AUTHORITY

SEC. 145. (a) The Secretary [ , after consultation with the National Advisory Council on Services and Facilities to the Developmentally Disabled, ] may make project grants to public or nonprofit private entities for—

(1) demonstrations (and research and evaluation in connection therewith) for establishing programs which hold promise of expanding or otherwise improving services to persons with developmental disabilities (especially those who are disadvantaged or multihandicapped), including programs for parent counseling and training, early screening and intervention, infant and preschool children, seizure control systems, legal advocacy, and community based counseling, care, housing, and other services or systems necessary to maintain a person with developmental disabilities in the community;

(2) public awareness and public education programs to assist in the elimination of social, attitudinal, and environmental barriers confronted by persons with developmental disabilities;

(3) coordinating and using all available community resources in meeting the needs of persons with developmental disabilities (especially those from disadvantaged backgrounds);

(4) demonstrations of the provision of services to persons with developmental disabilities who are also disadvantaged because of their economic status;

(5) technical assistance relating to services and facilities for persons with developmental disabilities, including assistance in State and local planning or administration respecting such services and facilities;

(6) training of specialized personnel needed for the provision of services for persons with developmental disabilities or for research directly related to such training;

(7) developing or demonstrating new or improved techniques for the provision of services to persons with developmental disabilities (including model integrated service projects);

(8) gathering and disseminating information relating to developmental disabilities; and

(9) improving the quality of services provided in and the administration of programs for such persons.

(b) *The Secretary shall establish procedures to insure participation of persons with developmental disabilities and their parents or guardians in determining priorities to be utilized by the Secretary in making project grants under the provisions of this section.*

(c) **[(b)]** No grant may be made under subsection (a) unless 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 the State in which the applicant's project will be conducted has a State plan approved under part C. The Secretary shall provide to the State Planning Council for the State in which an applicant's project will be conducted an opportunity to review the application for such project and to submit its comments thereon.

(d) **[(c)]** 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. In determining the amount of any grant under subsection (a) for the costs of any project, there shall be excluded from such costs an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to such project, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

(e) **[(d)]** For the purpose of making payments under grants under subsection (a), there are authorized to be appropriated \$18,000,000 for fiscal year 1976, \$22,000,000 for fiscal year 1977, and \$25,000,000 for fiscal year 1978**[-]** and for each succeeding fiscal year ending prior to October 1, 1983.

(f) **[(e)]** Of the funds appropriated under subsection (d) for any fiscal year, not less than 25 per centum of such funds shall be used for projects which the Secretary determines (after consultations with the National Advisory Council on Services and Facilities for the Developmentally Disabled) are of national significance.

(g) **[(f)]** No funds appropriated under the Public Health Service Act, under this Act (other than under subsection (d) of this section), or under section 304 of the Rehabilitation Act of 1973 may be used to make grants under subsection (a).





