

Please note: The compilations of law provided at this site are unofficial. They have been prepared by the House Office of the Legislative Counsel for the use and convenience of the House Committee on Education and the Workforce. The official compilation of Federal law is the United States Code, and rules of evidence regarding the Code have been established by statute.

[COMMITTEE PRINT]

A COMPILATION OF FEDERAL
EDUCATION LAWS
VOLUME V—SELECT EDUCATION AND
RELATED PROGRAMS

As Amended Through December 31, 2000

PREPARED FOR THE USE OF THE
COMMITTEE ON EDUCATION AND THE
WORKFORCE
OF THE
U.S. HOUSE OF REPRESENTATIVES
Serial No. 107-A

AND FOR THE USE OF THE
COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS
OF THE
UNITED STATES SENATE
S. Prt. 107-11

ONE HUNDRED SEVENTH CONGRESS
FIRST SESSION



SEPTEMBER 2001

[COMMITTEE PRINT]

A COMPILATION OF FEDERAL
EDUCATION LAWS
VOLUME V—SELECT EDUCATION AND
RELATED PROGRAMS

As Amended Through December 31, 2000

PREPARED FOR THE USE OF THE
COMMITTEE ON EDUCATION AND THE
WORKFORCE
OF THE
U.S. HOUSE OF REPRESENTATIVES
Serial No. 107-A

AND FOR THE USE OF THE
COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS
OF THE
UNITED STATES SENATE
S. Prt. 107-11

ONE HUNDRED SEVENTH CONGRESS
FIRST SESSION



SEPTEMBER 2001

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 2001

74-716

**A COMPILATION OF FEDERAL EDUCATION LAWS
Volume V—Select Education and Related Programs**

COMMITTEE ON EDUCATION AND THE WORKFORCE

JOHN A. BOEHNER, Ohio, *Chairman*

THOMAS E. PETRI, Wisconsin	GEORGE MILLER, California
MARGE ROUKEMA, New Jersey	DALE E. KILDEE, Michigan
CASS BALENGER, North Carolina	MAJOR R. OWENS, New York
PETER HOEKSTRA, Michigan	DONALD M. PAYNE, New Jersey
HOWARD P. "BUCK" McKEON, California	PATSY T. MINK, Hawaii
MICHAEL N. CASTLE, Delaware	ROBERT E. ANDREWS, New Jersey
SAM JOHNSON, Texas	TIM ROEMER, Indiana
JAMES C. GREENWOOD, Pennsylvania	ROBERT C. SCOTT, Virginia
LINDSEY O. GRAHAM, South Carolina	LYNN C. WOOLSEY, California
MARK E. SOUDER, Indiana	LYNN N. RIVERS, Michigan
CHARLIE NORWOOD, Georgia	RUBEN HINOJOSA, Texas
BOB SCHAFFER, Colorado	CAROLYN McCARTHY, New York
FRED UPTON, Michigan	JOHN F. TIERNEY, Massachusetts
VAN HILLEARY, Tennessee	RON KIND, Wisconsin
VERNON J. EHLERS, Michigan	LORETTA SANCHEZ, California
THOMAS G. TANCREDO, Colorado	HAROLD E. FORD, JR., Tennessee
ERNIE FLETCHER, Kentucky	DENNIS J. KUCINICH, Ohio
JIM DEMINT, South Carolina	DAVID WU, Oregon
JOHNNY ISAKSON, Georgia	RUSH D. HOLT, New Jersey
BOB GOODLATTE, Virginia	HILDA SOLIS, California
JUDY BIGGERT, Illinois	SUSAN DAVIS, California
TODD RUSSELL PLATTS, Pennsylvania	BETTY MCCOLLUM, Minnesota
PATRICK J. TIBERI, Ohio	
RIC KELLER, Florida	
TOM OSBORNE, Nebraska	
JOHN ABNEY CULBERSON, Texas	

PAULA NOWAKOWSKI, *Majority Staff Director*

JOHN LAWRENCE, *Minority Staff Director*

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

EDWARD M. KENNEDY, Massachusetts, *Chairman*

CHRISTOPHER J. DODD, Connecticut	JUDD GREGG, New Hampshire
TOM HARKIN, Iowa	BILL FRIST, Tennessee
BARBARA A. MIKULSKI, Maryland	MICHAEL B. ENZI, Wyoming
JAMES M. JEFFORDS, Vermont	TIM HUTCHINSON, Arkansas
JEFF BINGAMAN, New Mexico	JOHN W. WARNER, Virginia
PAUL D. WELLSTONE, Minnesota	CHRISTOPHER S. "KIT" BOND, Missouri
PATTY MURRAY, Washington	PAT ROBERTS, Kansas
JACK REED, Rhode Island	SUSAN M. COLLINS, Maine
JOHN EDWARDS, North Carolina	JEFF SESSIONS, Alabama
HILLARY RODHAM CLINTON, New York	MIKE DEWINE, Ohio

J. MICHAEL MYERS, *Majority Staff Director*

TOWNSEND LANGE McNitt, *Minority Staff Director*

For changes after the closing date of this publication (December 31, 2000) to provisions of law in this publication, see the United States Code Classification Tables published by the Office of the Law Revision Counsel of the House of Representatives at <http://uscode.house.gov/usctt.htm>.

TABLE OF CONTENTS

VOLUME V—SELECT EDUCATION LAWS AND RELATED PROGRAMS

PART I—CHILD ABUSE PREVENTION AND RELATED PROGRAMS

	Page
Child Abuse Prevention and Treatment Act	1
Child Abuse Prevention, Adoption, and Family Services Act of 1988	35
Child Abuse Prevention and Treatment and Adoption Reform Act of 1978	41
Abandoned Infants Assistance Act of 1988	47
Family Violence Prevention and Services Act	55
National Commission to Prevent Infant Mortality Act of 1986	75

PART II—PROGRAMS FOR INDIVIDUALS WITH DISABILITIES

Americans with Disabilities Act of 1990	79
Education of the Deaf Act of 1986	133

PART III—COMMUNITY SERVICE AND VOLUNTEER PROGRAMS

National and Community Service Act of 1990	149
Domestic Volunteer Service Act of 1973	267

PART IV—MISCELLANEOUS PROGRAMS

Congressional Award Act	309
National Environmental Education Act	327
National Commission on Drug-Free Schools (section 5051 of the Anti-Drug Abuse Act of 1988)	343
Title IX of the Education Amendments Act of 1972	347
Age Discrimination in Employment Act of 1967	353

PART I—CHILD ABUSE PREVENTION AND RELATED PROGRAMS

CHILD ABUSE PREVENTION AND TREATMENT ACT ¹

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Child Abuse Prevention and Treatment Act”.

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

TABLE OF CONTENTS

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings.

TITLE I—GENERAL PROGRAM

- Sec. 101. Office on Child Abuse and Neglect.
- Sec. 102. Advisory Board on Child Abuse and Neglect.
- Sec. 103. National clearinghouse for information relating to child abuse.
- Sec. 104. Research and assistance activities.
- Sec. 105. Grants to public agencies and nonprofit private organizations for demonstration programs and projects.
- Sec. 106. Grants to States for child abuse and neglect prevention and treatment programs.
- Sec. 107. Grants to States for programs relating to the investigation and prosecution of child abuse and neglect cases.
- Sec. 108. Miscellaneous requirements relating to assistance.
- Sec. 109. Coordination of child abuse and neglect programs.
- Sec. 110. Reports.
- Sec. 111. Definitions.
- Sec. 112. Authorization of appropriations.
- Sec. 113. Rule of construction.

TITLE II—COMMUNITY-BASED FAMILY RESOURCE AND SUPPORT GRANTS

- Sec. 201. Purpose and authority.
- Sec. 202. Eligibility.
- Sec. 203. Amount of grant.
- Sec. 204. Existing grants.
- Sec. 205. Application.
- Sec. 206. Local program requirements.
- Sec. 207. Performance measures.
- Sec. 208. National network for community-based family resource programs.
- Sec. 209. Definitions.
- Sec. 210. Authorization of appropriations.
(42 U.S.C. 5101 note)

SEC. 2. FINDINGS.

Congress finds that—

(1) each year, close to 1,000,000 American children are victims of abuse and neglect;

(2) many of these children and their families fail to receive adequate protection or treatment;

¹Public Law 93-247.

(3) the problem of child abuse and neglect requires a comprehensive approach that—

(A) integrates the work of social service, legal, health, mental health, education, and substance abuse agencies and organizations;

(B) strengthens coordination among all levels of government, and with private agencies, civic, religious, and professional organizations, and individual volunteers;

(C) emphasizes the need for abuse and neglect prevention, assessment, investigation, and treatment at the neighborhood level;

(D) ensures properly trained and support staff with specialized knowledge, to carry out their child protection duties; and

(E) is sensitive to ethnic and cultural diversity;

(4) the failure to coordinate and comprehensively prevent and treat child abuse and neglect threatens the futures of thousands of children and results in a cost to the Nation of billions of dollars in tangible expenditures, as well as significant intangible costs;

(5) all elements of American society have a shared responsibility in responding to this national child and family emergency;

(6) substantial reductions in the prevalence and incidence of child abuse and neglect and the alleviation of its consequences are matters of the highest national priority;

(7) national policy should strengthen families to prevent child abuse and neglect, provide support for intensive services to prevent the unnecessary removal of children from families, and promote the reunification of families if removal has taken place;

(8) the child protection system should be comprehensive, child-centered, family-focused, and community-based, should incorporate all appropriate measures to prevent the occurrence or recurrence of child abuse and neglect, and should promote physical and psychological recovery and social re-integration in an environment that fosters the health, safety, self-respect, and dignity of the child;

(9) because of the limited resources available in low-income communities, Federal aid for the child protection system should be distributed with due regard to the relative financial need of the communities;

(10) the Federal government should assist States and communities with the fiscal, human, and technical resources necessary to develop and implement a successful and comprehensive child and family protection strategy;

(11) the Federal government should provide leadership and assist communities in their child and family protection efforts by—

(A) promoting coordinated planning among all levels of government;

(B) generating and sharing knowledge relevant to child and family protection, including the development of models for service delivery;

(C) strengthening the capacity of States to assist communities;

(D) allocating financial resources to assist States in implementing community plans;

(E) helping communities to carry out their child and family protection plans by promoting the competence of professional, paraprofessional, and volunteer resources; and

(F) providing leadership to end the abuse and neglect of the nation's children and youth.

(42 U.S.C. 5101 note)

TITLE I—GENERAL PROGRAM ¹

SEC. 101. OFFICE ON CHILD ABUSE AND NEGLECT.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services may establish an office to be known as the Office on Child Abuse and Neglect.

(b) PURPOSE.—The purpose of the Office established under subsection (a) shall be to execute and coordinate the functions and activities of this Act. In the event that such functions and activities are performed by another entity or entities within the Department of Health and Human Services, the Secretary shall ensure that such functions and activities are executed with the necessary expertise and in a fully coordinated manner involving regular intradepartmental and interdepartmental consultation with all agencies involved in child abuse and neglect activities.

(42 U.S.C. 5101)

SEC. 102. ADVISORY BOARD ON CHILD ABUSE AND NEGLECT.

(a) APPOINTMENT.—The Secretary may appoint an advisory board to make recommendations to the Secretary and to the appropriate committees of Congress concerning specific issues relating to child abuse and neglect.

(b) SOLICITATION OF NOMINATIONS.—The Secretary shall publish a notice in the Federal Register soliciting nominations for the appointment of members of the advisory board under subsection (a).

(c) COMPOSITION.—In establishing the board under subsection (a), the Secretary shall appoint members from the general public who are individuals knowledgeable in child abuse and neglect prevention, intervention, treatment, or research, and with due consideration to representation of ethnic or racial minorities and diverse geographic areas, and who represent—

- (1) law (including the judiciary);
- (2) psychology (including child development);
- (3) social services (including child protective services);
- (4) medicine (including pediatrics);
- (5) State and local government;
- (6) organizations providing services to disabled persons;
- (7) organizations providing services to adolescents;

¹Section 142 of Public Law 102-295 requires the Secretary of Health and Human Services to submit to the appropriate committees of Congress an annual report concerning the measures being taken to assist States in implementing a voluntary reporting system for child abuse and neglect.

- (8) teachers;
- (9) parent self-help organizations;
- (10) parents' groups;
- (11) voluntary groups;
- (12) family rights groups; and
- (13) children's rights advocates.

(d) VACANCIES.—Any vacancy in the membership of the board shall be filled in the same manner in which the original appointment was made.

(e) ELECTION OF OFFICERS.—The board shall elect a chairperson and vice-chairperson at its first meeting from among the members of the board.

(f) DUTIES.—Not later than 1 year after the establishment of the board under subsection (a), the board shall submit to the Secretary and the appropriate committees of Congress a report, or interim report, containing—

(1) recommendations on coordinating Federal, State, and local child abuse and neglect activities with similar activities at the Federal, State, and local level pertaining to family violence prevention;

(2) specific modifications needed in Federal and State laws and programs to reduce the number of unfounded or unsubstantiated reports of child abuse or neglect while enhancing the ability to identify and substantiate legitimate cases of abuse or neglect which place a child in danger; and

(3) recommendations for modifications needed to facilitate coordinated national data collection with respect to child protection and child welfare.

(42 U.S.C. 5102)

SEC. 103. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.

(a) ESTABLISHMENT.—The Secretary shall through the Department, or by one or more contracts of not less than 3 years duration let through a competition, establish a national clearinghouse for information relating to child abuse.

(b) FUNCTIONS.—The Secretary shall, through the clearinghouse established by subsection (a)—

(1) maintain, coordinate, and disseminate information on all programs, including private programs, that show promise of success with respect to the prevention, assessment, identification, and treatment of child abuse and neglect; and¹

(2) maintain and disseminate information relating to—

(A) the incidence of cases of child abuse and neglect in the United States;

(B) the incidence of such cases in populations determined by the Secretary under section 105(a)(1) of the Child Abuse Prevention, Adoption, and Family Services Act of 1988; and

(C) the incidence of any such cases related to alcohol or drug abuse.

¹Prior to the redesignation of this section by section 113(a)(1)(A) of Public Law 104-235, section 104(2)(B)(ii) of such Act amended this provision by striking “, including” and all that follows and inserting “; and”. The amendment was executed by striking “, including” the second place such term appeared and inserting “; and” to reflect the probable intent of Congress.

(c) COORDINATION WITH AVAILABLE RESOURCES.—

(1) IN GENERAL.—In establishing a national clearinghouse as required by subsection (a), the Secretary shall—

(A) consult with other Federal agencies that operate similar clearinghouses;

(B) consult with the head of each agency involved with child abuse and neglect and mechanisms for the sharing of such information among other Federal agencies and clearinghouses on the development of the components for information collection and management of such clearinghouse;

(C) develop a Federal data system involving the elements under subsection (b) which, to the extent practicable, coordinates existing Federal, State, regional, and local child welfare data systems which shall include—

(i) standardized data on false, unfounded, unsubstantiated, and substantiated reports; and

(ii) information on the number of deaths due to child abuse and neglect;

(D) through a national data collection and analysis program and in consultation with appropriate State and local agencies and experts in the field, collect, compile, and make available State child abuse and neglect reporting information which, to the extent practical, shall be universal and case specific and integrated with other case-based foster care and adoption data collected by the Secretary;

(E) compile, analyze, and publish a summary of the research conducted under section 105(a)¹; and

(F) solicit public comment on the components of such clearinghouse.

(2) CONFIDENTIALITY REQUIREMENT.—In carrying out paragraph (1)(D), the Secretary shall ensure that methods are established and implemented to preserve the confidentiality of records relating to case specific data.

(42 U.S.C. 5104)

SEC. 104. RESEARCH AND ASSISTANCE ACTIVITIES.

(a) RESEARCH.—

(1) TOPICS.—The Secretary shall, in consultation with other Federal agencies and recognized experts in the field, carry out a continuing interdisciplinary program of research that is designed to provide information needed to better protect children from abuse or neglect and to improve the well-being of abused or neglected children, with at least a portion of such research being field initiated. Such research program may focus on—

(A) the nature and scope of child abuse and neglect;

(B) causes, prevention, assessment, identification, treatment, cultural and socio-economic distinctions, and the consequences of child abuse and neglect;

(C) appropriate, effective and culturally sensitive investigative, administrative, and judicial procedures with respect to cases of child abuse; and

¹So in law. Probably should read “section 104(a)”. See section 113(a)(1)(A) of P.L. 104–235 (110 Stat. 3079).

(D) the national incidence of child abuse and neglect, including—

(i) the extent to which incidents of child abuse are increasing or decreasing in number and severity;

(ii) the incidence of substantiated and unsubstantiated reported child abuse cases;

(iii) the number of substantiated cases that result in a judicial finding of child abuse or neglect or related criminal court convictions;

(iv) the extent to which the number of unsubstantiated, unfounded and false reported cases of child abuse or neglect have contributed to the inability of a State to respond effectively to serious cases of child abuse or neglect;

(v) the extent to which the lack of adequate resources and the lack of adequate training of individuals required by law to report suspected cases of child abuse have contributed to the inability of a State to respond effectively to serious cases of child abuse and neglect;

(vi) the number of unsubstantiated, false, or unfounded reports that have resulted in a child being placed in substitute care, and the duration of such placement;

(vii) the extent to which unsubstantiated reports return as more serious cases of child abuse or neglect;

(viii) the incidence and prevalence of physical, sexual, and emotional abuse and physical and emotional neglect in substitute care; and

(ix) the incidence and outcomes of abuse allegations reported within the context of divorce, custody, or other family court proceedings, and the interaction between this venue and the child protective services system.

(2) PRIORITIES.—(A) The Secretary shall establish research priorities for making grants or contracts for purposes of carrying out paragraph (1).

(B) In establishing research priorities as required by subparagraph (A), the Secretary shall—

(i) publish proposed priorities in the Federal Register for public comment; and

(ii) allow not less than 60 days for public comment on such proposed priorities.

(b) PROVISION OF TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall provide technical assistance to State and local public and nonprofit private agencies and organizations, including disability organizations and persons who work with children with disabilities, to assist such agencies and organizations in planning, improving, developing, and carrying out programs and activities relating to the prevention, assessment, identification, and treatment of child abuse and neglect.

(2) EVALUATION.—Such technical assistance may include an evaluation or identification of—

- (A) various methods and procedures for the investigation, assessment, and prosecution of child physical and sexual abuse cases;
 - (B) ways to mitigate psychological trauma to the child victim; and
 - (C) effective programs carried out by the States under titles I and II.
- (3) DISSEMINATION.—The Secretary may provide for and disseminate information relating to various training resources available at the State and local level to—
- (A) individuals who are engaged, or who intend to engage, in the prevention, identification, and treatment of child abuse and neglect; and
 - (B) appropriate State and local officials to assist in training law enforcement, legal, judicial, medical, mental health, education, and child welfare personnel in appropriate methods of interacting during investigative, administrative, and judicial proceedings with children who have been subjected to abuse.
- (c) AUTHORITY TO MAKE GRANTS OR ENTER INTO CONTRACTS.—
- (1) IN GENERAL.—The functions of the Secretary under this section may be carried out either directly or through grant or contract.
 - (2) DURATION.—Grants under this section shall be made for periods of not more than 5 years.
 - (3) PREFERENCE FOR LONG-TERM STUDIES.—In making grants for purposes of conducting research under subsection (a), the Secretary shall give special consideration to applications for long-term projects.
 - (d) PEER REVIEW FOR GRANTS.—
- (1) ESTABLISHMENT OF PEER REVIEW PROCESS.—(A) The Secretary shall, in consultation with experts in the field and other federal agencies¹, establish a formal, rigorous, and meritorious peer review process for purposes of evaluating and reviewing applications for grants under this section and determining the relative merits of the projects for which such assistance is requested. The purpose of this process is to enhance the quality and usefulness of research in the field of child abuse and neglect.
 - (B) In establishing the process required by subparagraph (A), the Secretary shall appoint to the peer review panels only members who are experts in the field of child abuse and neglect or related disciplines, with appropriate expertise in the application to be reviewed, and who are not individuals who are officers or employees of the Administration on Children and Families. The panels shall meet as often as is necessary to facilitate the expeditious review of applications for grants and contracts under this section, but may not meet less than once a year. The Secretary shall ensure that the peer review panel utilizes scientifically valid review criteria and scoring guidelines for review committees.

¹ So in law. Probably should read "Federal agencies".

(2) REVIEW OF APPLICATIONS FOR ASSISTANCE.—Each peer review panel established under paragraph (1)(A) that reviews any application for a grant shall—

(A) determine and evaluate the merit of each project described in such application;

(B) rank such application with respect to all other applications it reviews in the same priority area for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and

(C) make recommendations to the Secretary concerning whether the application for the project shall be approved.

The Secretary shall award grants under this section on the basis of competitive review.

(3) NOTICE OF APPROVAL.—(A) The Secretary shall provide grants and contracts under this section from among the projects which the peer review panels established under paragraph (1)(A) have determined to have merit.

(B) In the instance in which the Secretary approves an application for a program without having approved all applications ranked above such application (as determined under paragraph (2)(B)), the Secretary shall append to the approved application a detailed explanation of the reasons relied on for approving the application and for failing to approve each pending application that is superior in merit, as indicated on the list under paragraph (2)(B).

(42 U.S.C. 5105)

SEC. 105. GRANTS TO PUBLIC AGENCIES AND NONPROFIT PRIVATE ORGANIZATIONS FOR DEMONSTRATION PROGRAMS AND PROJECTS.

(a) DEMONSTRATION PROGRAMS AND PROJECTS.—The Secretary may make grants to, and enter into contracts with, public agencies or private nonprofit agencies or organizations (or combinations of such agencies or organizations) for time limited, demonstration programs and projects for the following purposes:

(1) TRAINING PROGRAMS.—The Secretary may award grants to public or private nonprofit organizations under this section—

(A) for the training of professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of child abuse and neglect, including the links between domestic violence and child abuse;

(B) to improve the recruitment, selection, and training of volunteers serving in public and private nonprofit children, youth and family service organizations in order to prevent child abuse and neglect through collaborative analysis of current recruitment, selection, and training programs and development of model programs for dissemination and replication nationally; and

(C) for the establishment of resource centers for the purpose of providing information and training to professionals working in the field of child abuse and neglect.

(2) **MUTUAL SUPPORT PROGRAMS.**—The Secretary may award grants to private nonprofit organizations (such as Parents Anonymous) to establish or maintain a national network of mutual support and self-help programs as a means of strengthening families in partnership with their communities.

(3) **OTHER INNOVATIVE PROGRAMS AND PROJECTS.**—

(A) **IN GENERAL.**—The Secretary may award grants to public and private nonprofit agencies that demonstrate innovation in responding to reports of child abuse and neglect including programs of collaborative partnerships between the State child protective services agency, community social service agencies and family support programs, schools, churches and synagogues, and other community agencies to allow for the establishment of a triage system that—

(i) accepts, screens and assesses reports received to determine which such reports require an intensive intervention and which require voluntary referral to another agency, program or project;

(ii) provides, either directly or through referral, a variety of community-linked services to assist families in preventing child abuse and neglect; and

(iii) provides further investigation and intensive intervention where the child's safety is in jeopardy.

(B) **KINSHIP CARE.**—The Secretary may award grants to public and private nonprofit entities in not more than 10 States to assist such entities in developing or implementing procedures using adult relatives as the preferred placement for children removed from their home, where such relatives are determined to be capable of providing a safe nurturing environment for the child and where such relatives comply with the State child protection standards.

(C) **PROMOTION OF SAFE, FAMILY-FRIENDLY PHYSICAL ENVIRONMENTS FOR VISITATION AND EXCHANGE.**—The Secretary may award grants to entities to assist such entities in establishing and operating safe, family-friendly physical environments—

(i) for court-ordered supervised visitation between children and abusing parents; and

(ii) to safely facilitate the exchange of children for visits with noncustodian parents in cases of domestic violence.

(b) **DISCRETIONARY GRANTS.**—In addition to grants or contracts made under subsection (b), grants or contracts under this section may be used for the following:

(1) Projects which provide educational identification, prevention, and treatment services in cooperation with preschool and elementary and secondary schools.

(2) Respite and crisis nursery programs provided by community-based organizations under the direction and supervision of hospitals.

(3) Respite and crisis nursery programs provided by community-based organizations.

(4)(A) Providing hospital-based information and referral services to—

- (i) parents of children with disabilities; and
 - (ii) children who have been neglected or abused and their parents.
- (B) Except as provided in subparagraph (C)(iii), services provided under a grant received under this paragraph shall be provided at the hospital involved—
- (i) upon the birth or admission of a child with disabilities; and
 - (ii) upon the treatment of a child for abuse or neglect.
- (C) Services, as determined as appropriate by the grantee, provided under a grant received under this paragraph shall be hospital-based and shall consist of—
- (i) the provision of notice to parents that information relating to community services is available;
 - (ii) the provision of appropriate information to parents of a child with disabilities regarding resources in the community, particularly parent training resources, that will assist such parents in caring for their child;
 - (iii) the provision of appropriate information to parents of a child who has been neglected or abused regarding resources in the community, particularly parent training resources, that will assist such parents in caring for their child and reduce the possibility of abuse or neglect;
 - (iv) the provision of appropriate follow-up services to parents of a child described in subparagraph (B) after the child has left the hospital; and
 - (v) where necessary, assistance in coordination of community services available to parents of children described in subparagraph (B).
- The grantee shall assure that parental involvement described in this subparagraph is voluntary.
- (D) For purposes of this paragraph, a qualified grantee is a nonprofit acute care hospital that—
- (i) is in a combination with—
 - (I) a health-care provider organization;
 - (II) a child welfare organization;
 - (III) a disability organization; and
 - (IV) a State child protection agency;
 - (ii) submits an application for a grant under this paragraph that is approved by the Secretary;
 - (iii) maintains an office in the hospital involved for purposes of providing services under such grant;
 - (iv) provides assurances to the Secretary that in the conduct of the project the confidentiality of medical, social, and personal information concerning any person described in subparagraph (A) or (B) shall be maintained, and shall be disclosed only to qualified persons providing required services described in subparagraph (C) for purposes relating to conduct of the project; and
 - (v) assumes legal responsibility for carrying out the terms and conditions of the grant.
- (E) In awarding grants under this paragraph, the Secretary shall—
- (i) give priority under this section for two grants under this paragraph, provided that one grant shall be made to

provide services in an urban setting and one grant shall be made to provide services in rural setting; and

(ii) encourage qualified grantees to combine the amounts received under the grant with other funds available to such grantees.

(5) Such other innovative programs and projects that show promise of preventing and treating cases of child abuse and neglect as the Secretary may approve.

(c) EVALUATION.—In making grants for demonstration projects under this section, the Secretary shall require all such projects to be evaluated for their effectiveness. Funding for such evaluations shall be provided either as a stated percentage of a demonstration grant or as a separate grant entered into by the Secretary for the purpose of evaluating a particular demonstration project or group of projects.

(42 U.S.C. 5106)

SEC. 106. GRANTS TO STATES FOR CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAMS.

(a) DEVELOPMENT AND OPERATION GRANTS.—The Secretary shall make grants to the States, based on the population of children under the age of 18 in each State that applies for a grant under this section, for purposes of assisting the States in improving the child protective services system of each such State in—

(1) the intake, assessment, screening, and investigation of reports of abuse and neglect;

(2)(A) creating and improving the use of multidisciplinary teams and interagency protocols to enhance investigations; and

(B) improving legal preparation and representation, including—

(i) procedures for appealing and responding to appeals of substantiated reports of abuse and neglect; and

(ii) provisions for the appointment of an individual appointed to represent a child in judicial proceedings;

(3) case management and delivery of services provided to children and their families;

(4) enhancing the general child protective system by improving risk and safety assessment tools and protocols, automation systems that support the program and track reports of child abuse and neglect from intake through final disposition and information referral systems;

(5) developing, strengthening, and facilitating training opportunities and requirements for individuals overseeing and providing services to children and their families through the child protection system;

(6) developing and facilitating training protocols for individuals mandated to report child abuse or neglect;

(7) developing, strengthening, and supporting child abuse and neglect prevention, treatment, and research programs in the public and private sectors;

(8) developing, implementing, or operating—

(A) information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions for—

- (i) professional and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health-care facilities; and
- (ii) the parents of such infants; and
- (B) programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including—
 - (i) existing social and health services;
 - (ii) financial assistance; and
 - (iii) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption; or
- (9) developing and enhancing the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level.

(b) ELIGIBILITY REQUIREMENTS.—

(1) STATE PLAN.—

(A) IN GENERAL.—To be eligible to receive a grant under this section, a State shall, at the time of the initial grant application and every 5 years thereafter, prepare and submit to the Secretary a State plan that specifies the areas of the child protective services system described in subsection (a) that the State intends to address with amounts received under the grant.

(B) ADDITIONAL REQUIREMENT.—After the submission of the initial grant application under subparagraph (A), the State shall provide notice to the Secretary of any substantive changes to any State law relating to the prevention of child abuse and neglect that may affect the eligibility of the State under this section.

(2) COORDINATION.—A State plan submitted under paragraph (1) shall, to the maximum extent practicable, be coordinated with the State plan under part B of title IV of the Social Security Act relating to child welfare services and family preservation and family support services, and shall contain an outline of the activities that the State intends to carry out using amounts received under the grant to achieve the purposes of this title, including—

(A) an assurance in the form of a certification by the chief executive officer of the State that the State has in effect and is enforcing a State law, or has in effect and is operating a Statewide program¹, relating to child abuse and neglect that includes—

- (i) provisions or procedures for the reporting of known and suspected instances of child abuse and neglect;
- (ii) procedures for the immediate screening, safety assessment, and prompt investigation of such reports;
- (iii) procedures for immediate steps to be taken to ensure and protect the safety of the abused or ne-

¹ So in law. Probably should read “statewide program”.

glected child and of any other child under the same care who may also be in danger of abuse or neglect and ensuring their placement in a safe environment;

(iv) provisions for immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect;

(v) methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including requirements ensuring that reports and records made and maintained pursuant to the purposes of this Act shall only be made available to—

(I) individuals who are the subject of the report;

(II) Federal, State, or local government entities, or any agent of such entities, having a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;

(III) child abuse citizen review panels;

(IV) child fatality review panels;

(V) a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and

(VI) other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose;

(vi) provisions which allow for public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality;

(vii) the cooperation of State law enforcement officials, court of competent jurisdiction, and appropriate State agencies providing human services in the investigation, assessment, prosecution, and treatment of child abuse or neglect;

(viii) provisions requiring, and procedures in place that facilitate the prompt expungement of any records that are accessible to the general public or are used for purposes of employment or other background checks in cases determined to be unsubstantiated or false, except that nothing in this section shall prevent State child protective services agencies from keeping information on unsubstantiated reports in their case-work files to assist in future risk and safety assessment;

(ix) provisions and procedures requiring that in every case involving an abused or neglected child which results in a judicial proceeding, a guardian ad litem, who may be an attorney or a court appointed special advocate (or both), shall be appointed to represent the child in such proceedings—

(I) to obtain first-hand, a clear understanding of the situation and needs of the child; and

(II) to make recommendations to the court concerning the best interests of the child;

(x) the establishment of citizen review panels in accordance with subsection (c);

(xi) provisions, procedures, and mechanisms to be effective not later than 2 years after the date of the enactment of this section—

(I) for the expedited termination of parental rights in the case of any infant determined to be abandoned under State law; and

(II) by which individuals who disagree with an official finding of abuse or neglect can appeal such finding;

(xii) provisions, procedures, and mechanisms to be effective not later than 2 years after the date of the enactment of this section that assure that the State does not require reunification of a surviving child with a parent who has been found by a court of competent jurisdiction—

(I) to have committed murder (which would have been an offense under section 1111(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of such parent;

(II) to have committed voluntary manslaughter (which would have been an offense under section 1112(a) of title 18, United States Code, if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of such parent;

(III) to have aided or abetted, attempted, conspired, or solicited to commit such murder or voluntary manslaughter; or

(IV) to have committed a felony assault that results in the serious bodily injury to the surviving child or another child of such parent; and

(xiii) an assurance that, upon the implementation by the State of the provisions, procedures, and mechanisms under clause (xii), conviction of any one of the felonies listed in clause (xii) constitute grounds under State law for the termination of parental rights of the convicted parent as to the surviving children (although case-by-case determinations of whether or not to seek termination of parental rights shall be within the sole discretion of the State);

(B) an assurance that the State has in place procedures for responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

(i) coordination and consultation with individuals designated by and within appropriate health-care facilities;

(ii) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

(iii) authority, under State law, for the State child protective services system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life threatening¹ conditions;

(C) a description of—

(i) the services to be provided under the grant to individuals, families, or communities, either directly or through referrals aimed at preventing the occurrence of child abuse and neglect;

(ii) the training to be provided under the grant to support direct line and supervisory personnel in report taking, screening, assessment, decision making, and referral for investigating suspected instances of child abuse and neglect; and

(iii) the training to be provided under the grant for individuals who are required to report suspected cases of child abuse and neglect; and

(D) an assurance or certification that the programs or projects relating to child abuse and neglect carried out under part B of title IV of the Social Security Act comply with the requirements set forth in paragraph (1) and this paragraph.

(3) LIMITATION.—With regard to clauses (v) and (vi) of paragraph (2)(A), nothing in this section shall be construed as restricting the ability of a State to refuse to disclose identifying information concerning the individual initiating a report or complaint alleging suspected instances of child abuse or neglect, except that the State may not refuse such a disclosure where a court orders such disclosure after such court has reviewed, in camera, the record of the State related to the report or complaint and has found it has reason to believe that the reporter knowingly made a false report.

(4) DEFINITIONS.—For purposes of this subsection—

(A) the term “near fatality” means an act that, as certified by a physician, places the child in serious or critical condition; and

(B) the term “serious bodily injury” means bodily injury which involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(c) CITIZEN REVIEW PANELS.—

¹ So in law. Probably should read “life-threatening”.

- (1) ESTABLISHMENT.—
- (A) IN GENERAL.—Except as provided in subparagraph (B), each State to which a grant is made under this section shall establish not less than 3 citizen review panels.
- (B) EXCEPTIONS.—
- (i) ESTABLISHMENT OF PANELS BY STATES RECEIVING MINIMUM ALLOTMENT.—A State that receives the minimum allotment of \$175,000 under section 203(b)(1)(A) for a fiscal year shall establish not less than 1 citizen review panel.
- (ii) DESIGNATION OF EXISTING ENTITIES.—A State may designate as panels for purposes of this subsection one or more existing entities established under State or Federal law, such as child fatality panels or foster care review panels, if such entities have the capacity to satisfy the requirements of paragraph (4) and the State ensures that such entities will satisfy such requirements.
- (2) MEMBERSHIP.—Each panel established pursuant to paragraph (1) shall be composed of volunteer members who are broadly representative of the community in which such panel is established, including members who have expertise in the prevention and treatment of child abuse and neglect.
- (3) MEETINGS.—Each panel established pursuant to paragraph (1) shall meet not less than once every 3 months.
- (4) FUNCTIONS.—
- (A) IN GENERAL.—Each panel established pursuant to paragraph (1) shall, by examining the policies and procedures of State and local agencies and where appropriate, specific cases, evaluate the extent to which the agencies are effectively discharging their child protection responsibilities in accordance with—
- (i) the State plan under subsection (b);
- (ii) the child protection standards set forth in subsection (b); and
- (iii) any other criteria that the panel considers important to ensure the protection of children, including—
- (I) a review of the extent to which the State child protective services system is coordinated with the foster care and adoption programs established under part E of title IV of the Social Security Act; and
- (II) a review of child fatalities and near fatalities (as defined in subsection (b)(4)).
- (B) CONFIDENTIALITY.—
- (i) IN GENERAL.—The members and staff of a panel established under paragraph (1)—
- (I) shall not disclose to any person or government official any identifying information about any specific child protection case with respect to which the panel is provided information; and
- (II) shall not make public other information unless authorized by State statute.

- (ii) CIVIL SANCTIONS.—Each State that establishes a panel pursuant to paragraph (1) shall establish civil sanctions for a violation of clause (i).
- (5) STATE ASSISTANCE.—Each State that establishes a panel pursuant to paragraph (1)—
- (A) shall provide the panel access to information on cases that the panel desires to review if such information is necessary for the panel to carry out its functions under paragraph (4); and
- (B) shall provide the panel, upon its request, staff assistance for the performance of the duties of the panel.
- (6) REPORTS.—Each panel established under paragraph (1) shall prepare and make available to the public, on an annual basis, a report containing a summary of the activities of the panel.
- (d) ANNUAL STATE DATA REPORTS.—Each State to which a grant is made under this section shall annually work with the Secretary to provide, to the maximum extent practicable, a report that includes the following:
- (1) The number of children who were reported to the State during the year as abused or neglected.
- (2) Of the number of children described in paragraph (1), the number with respect to whom such reports were—
- (A) substantiated;
- (B) unsubstantiated; or
- (C) determined to be false.
- (3) Of the number of children described in paragraph (2)—
- (A) the number that did not receive services during the year under the State program funded under this section or an equivalent State program;
- (B) the number that received services during the year under the State program funded under this section or an equivalent State program; and
- (C) the number that were removed from their families during the year by disposition of the case.
- (4) The number of families that received preventive services from the State during the year.
- (5) The number of deaths in the State during the year resulting from child abuse or neglect.
- (6) Of the number of children described in paragraph (5), the number of such children who were in foster care.
- (7) The number of child protective services workers responsible for the intake and screening of reports filed in the previous year.
- (8) The agency response time with respect to each such report with respect to initial investigation of reports of child abuse or neglect.
- (9) The response time with respect to the provision of services to families and children where an allegation of abuse or neglect has been made.
- (10) The number of child protective services workers responsible for intake, assessment, and investigation of child abuse and neglect reports relative to the number of reports investigated in the previous year.

(11) The number of children reunited with their families or receiving family preservation services that, within five years, result in subsequent substantiated reports of child abuse and neglect, including the death of the child.

(12) The number of children for whom individuals were appointed by the court to represent the best interests of such children and the average number of out of court contacts between such individuals and children.

(e) ANNUAL REPORT BY THE SECRETARY.—Within 6 months after receiving the State reports under subsection (d), the Secretary shall prepare a report based on information provided by the States for the fiscal year under such subsection and shall make the report and such information available to the Congress and the national clearinghouse for information relating to child abuse.

(42 U.S.C. 5106a)

SEC. 107. GRANTS TO STATES FOR PROGRAMS RELATING TO THE INVESTIGATION AND PROSECUTION OF CHILD ABUSE AND NEGLECT CASES.

(a) GRANTS TO STATES.—The Secretary, in consultation with the Attorney General, is authorized to make grants to the States for the purpose of assisting States in developing, establishing, and operating programs designed to improve—

(1) the handling of child abuse and neglect cases, particularly cases of child sexual abuse and exploitation, in a manner which limits additional trauma to the child victim;

(2) the handling of cases of suspected child abuse or neglect related fatalities; and

(3) the investigation and prosecution of cases of child abuse and neglect, particularly child sexual abuse and exploitation.

(b) ELIGIBILITY REQUIREMENTS.—In order for a State to qualify for assistance under this section, such State shall—

(1) fulfill the requirements of section 107(b)¹;

(2) establish a task force as provided in subsection (c);

(3) fulfill the requirements of subsection (d);

(4) submit annually an application to the Secretary at such time and containing such information and assurances as the Secretary considers necessary, including an assurance that the State will—

(A) make such reports to the Secretary as may reasonably be required; and

(B) maintain and provide access to records relating to activities under subsections (a) and (b); and

(5) submit annually to the Secretary a report on the manner in which assistance received under this program was expended throughout the State, with particular attention focused on the areas described in paragraphs (1) through (3) of subsection (a).

(c) STATE TASK FORCES.—

(1) GENERAL RULE.—Except as provided in paragraph (2), a State requesting assistance under this section shall establish or designate, and maintain, a State multidisciplinary task force

¹So in law. Probably should read “section 106(b)”. See section 113(a)(1)(A) of Public Law 104-235.

on children's justice (hereinafter referred to as "State task force") composed of professionals with knowledge and experience relating to the criminal justice system and issues of child physical abuse, child neglect, child sexual abuse and exploitation, and child maltreatment related fatalities. The State task force shall include—

(A) individuals representing the law enforcement community;

(B) judges and attorneys involved in both civil and criminal court proceedings related to child abuse and neglect (including individuals involved with the defense as well as the prosecution of such cases);

(C) child advocates, including both attorneys for children and, where such programs are in operation, court appointed special advocates;

(D) health and mental health professionals;

(E) individuals representing child protective service agencies;

(F) individuals experienced in working with children with disabilities;

(G) parents; and

(H) representatives of parents' groups.

(2) EXISTING TASK FORCE.—As determined by the Secretary, a State commission or task force established after January 1, 1983, with substantially comparable membership and functions, may be considered the State task force for purposes of this subsection.

(d) STATE TASK FORCE STUDY.—Before a State receives assistance under this section, and at three year intervals thereafter, the State task force shall comprehensively—

(1) review and evaluate State investigative, administrative and both civil and criminal judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal; and

(2) make policy and training recommendations in each of the categories described in subsection (e).

The task force may make such other comments and recommendations as are considered relevant and useful.

(e) ADOPTION OF STATE TASK FORCE RECOMMENDATIONS.—

(1) GENERAL RULE.—Subject to the provisions of paragraph (2), before a State receives assistance under this section, a State shall adopt recommendations of the State task force in each of the following categories—

(A) investigative, administrative, and judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal, in a manner which reduces the additional trauma to the child victim and the victim's family and which also ensures procedural fairness to the accused;

(B) experimental, model and demonstration programs for testing innovative approaches and techniques which may improve the rate¹ of successful prosecution or enhance the effectiveness of judicial and administrative action in child abuse cases, particularly child sexual abuse cases, and which also ensure procedural fairness to the accused; and

(C) reform of State laws, ordinances, regulations, protocols and procedures to provide comprehensive protection for children from abuse, particularly child sexual abuse and exploitation, while ensuring fairness to all affected persons.

(2) EXEMPTION.—As determined by the Secretary, a State shall be considered to be in fulfillment of the requirements of this subsection if—

(A) the State adopts an alternative to the recommendations of the State task force, which carries out the purpose of this section, in each of the categories under paragraph (1) for which the State task force's recommendations are not adopted; or

(B) the State is making substantial progress toward adopting recommendations of the State task force or a comparable alternative to such recommendations.

(f) FUNDS AVAILABLE.—For grants under this section, the Secretary shall use the amount authorized by section 1404A of the Victims of Crime Act of 1984.²

(42 U.S.C. 5106c)

SEC. 108. MISCELLANEOUS REQUIREMENTS RELATING TO ASSISTANCE.

(a) CONSTRUCTION OF FACILITIES.—

(1) RESTRICTION ON USE OF FUNDS.—Assistance provided under this Act may not be used for construction of facilities.

(2) LEASE, RENTAL, OR REPAIR.—The Secretary may authorize the use of funds received under this Act—

(A) where adequate facilities are not otherwise available, for the lease or rental of facilities; or

(B) for the repair or minor remodeling or alteration of existing facilities.

(b) GEOGRAPHICAL DISTRIBUTION.—The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this Act among the States, among geographic areas of the Nation, and among rural and urban areas of the Nation. To the extent possible, the Secretary shall ensure that the citizens of each State receive assistance from at least one project under this Act.

¹The amendment described in section 116(a)(6)(B) of P.L. 102-295 cannot be executed. The amendatory instructions are to strike out "improve the rate" and all that follows through "abuse cases" in subparagraph (B), and inserting in lieu thereof certain language. The instructions do not specify to which instance of the terms "abuse cases" the amendment applies. The language to have been inserted is as follows: "improve the prompt and successful resolution of civil and criminal court proceedings or enhance the effectiveness of judicial and administrative action in child abuse and neglect cases, particularly child sexual abuse and exploitation cases, including the enhancement of performance of court-appointed attorneys and guardians ad litem for children".

²Section 1404A of the Victims of Crime Act of 1994 has several references that are probably inconsistent with the intent of the Congress regarding the relationship between such Act and this Act. See notes on page 32.

(c) LIMITATION.—No funds appropriated for any grant or contract pursuant to authorizations made in this Act may be used for any purpose other than that for which such funds were authorized to be appropriated.

(42 U.S.C. 5106d)

SEC. 109. COORDINATION OF CHILD ABUSE AND NEGLECT PROGRAMS.

The Secretary shall prescribe regulations and make such arrangements as may be necessary or appropriate to ensure that there is effective coordination among programs related to child abuse and neglect under this Act and other such programs which are assisted by Federal funds.

(42 U.S.C. 5106e)

SEC. 110. REPORTS.

(a) COORDINATION EFFORTS.—Not later than March 1 of the second year following the date of enactment of the Child Abuse Prevention, Adoption, and Family Services Act of 1988 and every 2 years thereafter, the Secretary shall submit to the appropriate committees of Congress a report on efforts during the 2-year period preceding the date of the report to coordinate the objectives and activities of agencies and organizations which are responsible for programs and activities related to child abuse and neglect.

(b) EFFECTIVENESS OF STATE PROGRAMS AND TECHNICAL ASSISTANCE.—Not later than two years after the first fiscal year for which funds are obligated under section 1404A of the Victims of Crime Act of 1984¹, the Secretary shall submit to the appropriate committees of Congress a report evaluating the effectiveness of assisted programs in achieving the objectives of section 107.

(42 U.S.C. 5106f)

SEC. 111. DEFINITIONS.

For purposes of this title—

(1) the term “child” means a person who has not attained the lesser of—

(A) the age of 18; or

(B) except in the case of sexual abuse, the age specified by the child protection law of the State in which the child resides;

(2) the term “child abuse and neglect” means, at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse or exploitation, or an act or failure to act which presents an imminent risk of serious harm;

(3) the term “Secretary” means the Secretary of Health and Human Services;

(4) the term “sexual abuse” includes—

(A) the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or

(B) the rape, and in cases of caretaker or inter-familial relationships, statutory rape, molestation, prostitution, or

¹ See footnote number 2 on previous page.

other form of sexual exploitation of children, or incest with children;

(5) the term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

(6) the term “withholding of medically indicated treatment” means the failure to respond to the infant’s life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician’s or physicians’ reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that the term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician’s or physicians’ reasonable medical judgment—

(A) the infant is chronically and irreversibly comatose;

(B) the provision of such treatment would—

(i) merely prolong dying;

(ii) not be effective in ameliorating or correcting all of the infant’s life-threatening conditions; or

(iii) otherwise be futile in terms of the survival of the infant; or

(C) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

(42 U.S.C. 5106g)

SEC. 112. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—

(1) GENERAL AUTHORIZATION.—There are authorized to be appropriated to carry out this title, \$100,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001.

(2) DISCRETIONARY ACTIVITIES.—

(A) IN GENERAL.—Of the amounts appropriated for a fiscal year under paragraph (1), the Secretary shall make available 30 percent of such amounts to fund discretionary activities under this title.

(B) DEMONSTRATION PROJECTS.—Of the amounts made available for a fiscal year under subparagraph (A), the Secretary¹ make available not more than 40 percent of such amounts to carry out section 106.

(b) AVAILABILITY OF FUNDS WITHOUT FISCAL YEAR LIMITATION.—The Secretary shall ensure that funds appropriated pursuant to authorizations in this title shall remain available until expended for the purposes for which they were appropriated.

(42 U.S.C. 5106h)

SEC. 113. RULE OF CONSTRUCTION.

(a) IN GENERAL.—Nothing in this Act shall be construed—

(1) as establishing a Federal requirement that a parent or legal guardian provide a child any medical service or treatment

¹ So in original. Probably should read “Secretary shall make”.

against the religious beliefs of the parent or legal guardian; and

(2) to require that a State find, or to prohibit a State from finding, abuse or neglect in cases in which a parent or legal guardian relies solely or partially upon spiritual means rather than medical treatment, in accordance with the religious beliefs of the parent or legal guardian.

(b) STATE REQUIREMENT.—Notwithstanding subsection (a), a State shall, at a minimum, have in place authority under State law to permit the child protective services system of the State to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, to provide medical care or treatment for a child when such care or treatment is necessary to prevent or remedy serious harm to the child, or to prevent the withholding of medically indicated treatment from children with life threatening conditions. Except with respect to the withholding of medically indicated treatments from disabled infants with life threatening conditions, case by case determinations concerning the exercise of the authority of this subsection shall be within the sole discretion of the State.

(42 U.S.C. 5106i)

TITLE II—COMMUNITY-BASED FAMILY RESOURCE AND SUPPORT GRANTS

SEC. 201. PURPOSE AND AUTHORITY.

(a) PURPOSE.—It is the purpose of this title—

(1) to support State efforts to develop, operate, expand and enhance a network of community-based, prevention-focused, family resource and support programs that coordinate resources among existing education, vocational rehabilitation, disability, respite care, health, mental health, job readiness, self-sufficiency, child and family development, community action, Head Start, child care, child abuse and neglect prevention, juvenile justice, domestic violence prevention and intervention, housing, and other human service organizations within the State; and

(2) to foster an understanding, appreciation, and knowledge of diverse populations in order to be effective in preventing and treating child abuse and neglect.

(b) AUTHORITY.—The Secretary shall make grants under this title on a formula basis to the entity designated by the State as the lead entity (hereafter referred to in this title as the “lead entity”) under section 202(1) for the purpose of—

(1) developing, operating, expanding and enhancing Statewide¹ networks of community-based, prevention-focused, family resource and support programs that—

(A) offer assistance to families;

(B) provide early, comprehensive support for parents;

(C) promote the development of parenting skills, especially in young parents and parents with very young children;

¹ So in law. Probably should read “statewide”.

- (D) increase family stability;
 - (E) improve family access to other formal and informal resources and opportunities for assistance available within communities;
 - (F) support the additional needs of families with children with disabilities through respite care and other services; and
 - (G) decrease the risk of homelessness;
- (2) fostering the development of a continuum of preventive services for children and families through State and community-based collaborations and partnerships both public and private;
- (3) financing the start-up, maintenance, expansion, or redesign of specific family resource and support program services (such as respite care services, child abuse and neglect prevention activities, disability services, mental health services, housing services, transportation, adult education, home visiting and other similar services) identified by the inventory and description of current services required under section 205(a)(3) as an unmet need, and integrated with the network of community-based family resource and support program to the extent practicable given funding levels and community priorities;
- (4) maximizing funding for the financing, planning, community mobilization, collaboration, assessment, information and referral, startup, training and technical assistance, information management, reporting and evaluation costs for establishing, operating, or expanding a Statewide¹ network of community-based, prevention-focused, family resource and support program; and
- (5) financing public information activities that focus on the healthy and positive development of parents and children and the promotion of child abuse and neglect prevention activities.

(42 U.S.C. 5116)

SEC. 202. ELIGIBILITY.

A State shall be eligible for a grant under this title for a fiscal year if—

(1)(A) the chief executive officer of the State has designated a lead entity to administer funds under this title for the purposes identified under the authority of this title, including to develop, implement, operate, enhance or expand a Statewide network of community-based, prevention-focused, family resource and support programs, child abuse and neglect prevention activities and access to respite care services integrated with the Statewide¹ network;

(B) such lead entity is an existing public, quasi-public, or nonprofit private entity (which may be an entity that has not been established pursuant to State legislation, executive order, or any other written authority of the State) with a demonstrated ability to work with other State and community-based agencies to provide training and technical assistance, and that has the capacity and commitment to ensure the meaningful involvement of parents who are consumers and

¹ So in law. Probably should read "statewide".

who can provide leadership in the planning, implementation, and evaluation of programs and policy decisions of the applicant agency in accomplishing the desired outcomes for such efforts;

(C) in determining which entity to designate under subparagraph (A), the chief executive officer should give priority consideration equally to a trust fund advisory board of the State or to an existing entity that leverages Federal, State, and private funds for a broad range of child abuse and neglect prevention activities and family resource programs, and that is directed by an interdisciplinary, public-private structure, including participants from communities; and

(D) in the case of a State that has designated a State trust fund advisory board for purposes of administering funds under this title (as such title was in effect on the date of the enactment of the Child Abuse Prevention and Treatment Act Amendments of 1996) and in which one or more entities that leverage Federal, State, and private funds (as described in subparagraph (C)) exist, the chief executive officer shall designate the lead entity only after full consideration of the capacity and expertise of all entities desiring to be designated under subparagraph (A);

(2) the chief executive officer of the State provides assurances that the lead entity will provide or will be responsible for providing—

(A) a network of community-based family resource and support programs composed of local, collaborative, public-private partnerships directed by interdisciplinary structures with balanced representation from private and public sector members, parents, and public and private nonprofit service providers and individuals and organizations experienced in working in partnership with families with children with disabilities;

(B) direction to the network through an interdisciplinary, collaborative, public-private structure with balanced representation from private and public sector members, parents, and public sector and private nonprofit sector service providers; and

(C) direction and oversight to the network through identified goals and objectives, clear lines of communication and accountability, the provision of leveraged or combined funding from Federal, State and private sources, centralized assessment and planning activities, the provision of training and technical assistance, and reporting and evaluation functions; and

(3) the chief executive officer of the State provides assurances that the lead entity—

(A) has a demonstrated commitment to parental participation in the development, operation, and oversight of the Statewide¹ network of community-based, prevention-focused, family resource and support programs;

(B) has a demonstrated ability to work with State and community-based public and private nonprofit organiza-

¹ So in law. Probably should read "statewide".

tions to develop a continuum of preventive, family centered, comprehensive services for children and families through the Statewide¹ network of community-based, prevention-focused, family resource and support programs;

(C) has the capacity to provide operational support (both financial and programmatic) and training and technical assistance, to the Statewide¹ network of community-based, prevention-focused, family resource and support programs, through innovative, interagency funding and interdisciplinary service delivery mechanisms; and

(D) will integrate its efforts with individuals and organizations experienced in working in partnership with families with children with disabilities and with the child abuse and neglect prevention activities of the State, and demonstrate a financial commitment to those activities.

(42 U.S.C. 5116a)

SEC. 203. AMOUNT OF GRANT.

(a) **RESERVATION.**—The Secretary shall reserve 1 percent of the amount appropriated under section 210 for a fiscal year to make allotments to Indian tribes and tribal organizations and migrant programs.

(b) **REMAINING AMOUNTS.**—

(1) **IN GENERAL.**—The Secretary shall allot the amount appropriated under section 210 for a fiscal year and remaining after the reservation under subsection (a) among the States as follows:

(A) 70 percent of such amount appropriated shall be allotted among the States by allotting to each State an amount that bears the same proportion to such amount appropriated as the number of children under the age of 18 residing in the State bears to the total number of children under the age of 18 residing in all States (except that no State shall receive less than \$175,000 under this subparagraph).

(B) 30 percent of such amount appropriated shall be allotted among the States by allotting to each State an amount that bears the same proportion to such amount appropriated as the amount leveraged by the State from private, State, or other non-Federal sources and directed through the State lead agency in the preceding fiscal year bears to the aggregate of the amounts leveraged by all States from private, State, or other non-Federal sources and directed through the lead agency of such States in the preceding fiscal year.

(2) **ADDITIONAL REQUIREMENT.**—The Secretary shall provide allotments under paragraph (1) to the State lead entity.

(c) **ALLOCATION.**—Funds allotted to a State under this section—

(1) shall be for a 3-year period; and

(2) shall be provided by the Secretary to the State on an annual basis, as described in subsection (a).

(42 U.S.C. 5116b)

SEC. 204. EXISTING GRANTS.

(a) **IN GENERAL.**—Notwithstanding the enactment of the Child Abuse Prevention and Treatment Act Amendments of 1996, a State or entity that has a grant, contract, or cooperative agreement in effect, on the date of the enactment of such Act under any program described in subsection (b), shall continue to receive funds under such program, subject to the original terms under which such funds were provided under the grant, through the end of the applicable grant cycle.

(b) **PROGRAMS DESCRIBED.**—The programs described in this subsection are the following:

(1) The Community-Based Family Resource programs under section 201 of this Act, as such section was in effect on the day before the date of the enactment of the Child Abuse Prevention and Treatment Act Amendments of 1996.

(2) The Family Support Center programs under subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11481 et seq.), as such title was in effect on the day before the date of the enactment of the Child Abuse Prevention and Treatment Act Amendments of 1996.

(3) The Emergency Child Abuse Prevention Services grant program under section 107A of this Act, as such section was in effect on the day before the date of the enactment of the Human Services Amendments of 1994.

(4) Programs under the Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986.

(42 U.S.C. 5115c)

SEC. 205. APPLICATION.

A grant may not be made to a State under this title unless an application therefor is submitted by the State to the Secretary and such application contains the types of information specified by the Secretary as essential to carrying out the provisions of section 202, including—

(1) a description of the lead entity that will be responsible for the administration of funds provided under this title and the oversight of programs funded through the Statewide network of community-based, prevention-focused, family resource and support programs which meets the requirements of section 202;

(2) a description of how the network of community-based, prevention-focused, family resource and support programs will operate and how family resource and support services provided by public and private, nonprofit organizations, including those funded by programs consolidated under this Act, will be integrated into a developing continuum of family centered, holistic, preventive services for children and families;

(3) an assurance that an inventory of current family resource programs, respite care, child abuse and neglect prevention activities, and other family resource services operating in the State, and a description of current unmet needs, will be provided;

(4) a budget for the development, operation and expansion of the State's network of community-based, prevention-focused, family resource and support programs that verifies that the

State will expend in non-Federal funds an amount equal to not less than 20 percent of the amount received under this title (in cash, not in-kind) for activities under this title;

(5) an assurance that funds received under this title will supplement, not supplant, other State and local public funds designated for the Statewide network of community-based, prevention-focused, family resource and support programs;

(6) an assurance that the State has the capacity to ensure the meaningful involvement of parents who are consumers and who can provide leadership in the planning, implementation, and evaluation of the programs and policy decisions of the applicant agency in accomplishing the desired outcomes for such efforts;

(7) a description of the criteria that the entity will use to develop, or select and fund, individual community-based, prevention-focused, family resource and support programs as part of network development, expansion or enhancement;

(8) a description of outreach activities that the entity and the community-based, prevention-focused, family resource and support programs will undertake to maximize the participation of racial and ethnic minorities, children and adults with disabilities, homeless families and those at risk of homelessness, and members of other underserved or underrepresented groups;

(9) a plan for providing operational support, training and technical assistance to community-based, prevention-focused, family resource and support programs for development, operation, expansion and enhancement activities;

(10) a description of how the applicant entity's activities and those of the network and its members will be evaluated;

(11) a description of the actions that the applicant entity will take to advocate systemic changes in State policies, practices, procedures and regulations to improve the delivery of prevention-focused, family resource and support program services to children and families; and

(13)¹ an assurance that the applicant entity will provide the Secretary with reports at such time and containing such information as the Secretary may require.

(42 U.S.C. 5116d)

SEC. 206. LOCAL PROGRAM REQUIREMENTS.

(a) IN GENERAL.—Grants made under this title shall be used to develop, implement, operate, expand and enhance community-based, prevention-focused, family resource and support programs that—

(1) assess community assets and needs through a planning process that involves parents and local public agencies, local nonprofit organizations, and private sector representatives;

(2) develop a strategy to provide, over time, a continuum of preventive, family centered services to children and families, especially to young parents and parents with young children, through public-private partnerships;

(3) provide—

¹ So in law. Probably should be redesignated as paragraph (12).

- (A) core family resource and support services such as—
- (i) parent education, mutual support and self help, and leadership services;
 - (ii) outreach services;
 - (iii) community and social service referrals; and
 - (iv) follow-up services;
- (B) other core services, which must be provided or arranged for through contracts or agreements with other local agencies, including all forms of respite care services to the extent practicable; and
- (C) access to optional services, including—
- (i) referral to and counseling for adoption services for individuals interested in adopting a child or relinquishing their child for adoption;
 - (ii) child care, early childhood development and intervention services;
 - (iii) referral to services and supports to meet the additional needs of families with children with disabilities;
 - (iv) referral to job readiness services;
 - (v) referral to educational services, such as scholastic tutoring, literacy training, and General Educational Degree services;
 - (vi) self-sufficiency and life management skills training;
 - (vii) community referral services, including early developmental screening of children; and
 - (viii) peer counseling;
- (4) develop leadership roles for the meaningful involvement of parents in the development, operation, evaluation, and oversight of the programs and services;
- (5) provide leadership in mobilizing local public and private resources to support the provision of needed family resource and support program services; and
- (6) participate with other community-based, prevention-focused, family resource and support program grantees in the development, operation and expansion of the Statewide network.
- (b) PRIORITY.—In awarding local grants under this title, a lead entity shall give priority to effective community-based programs serving low income communities and those serving young parents or parents with young children, including community-based family resource and support programs.

(42 U.S.C. 5116e)

SEC. 207. PERFORMANCE MEASURES.

A State receiving a grant under this title, through reports provided to the Secretary—

- (1) shall demonstrate the effective development, operation and expansion of a Statewide¹ network of community-based, prevention-focused, family resource and support programs that meets the requirements of this title;

¹ So in law. Probably should read “statewide”.

(2) shall supply an inventory and description of the services provided to families by local programs that meet identified community needs, including core and optional services as described in section 202;

(3) shall demonstrate the establishment of new respite care and other specific new family resources services, and the expansion of existing services, to address unmet needs identified by the inventory and description of current services required under section 205(3);

(4) shall describe the number of families served, including families with children with disabilities, and the involvement of a diverse representation of families in the design, operation, and evaluation of the Statewide¹ network of community-based, prevention-focused, family resource and support programs, and in the design, operation and evaluation of the individual community-based family resource and support programs that are part of the Statewide¹ network funded under this title;

(5) shall demonstrate a high level of satisfaction among families who have used the services of the community-based, prevention-focused, family resource and support programs;

(6) shall demonstrate the establishment or maintenance of innovative funding mechanisms, at the State or community level, that blend Federal, State, local and private funds, and innovative, interdisciplinary service delivery mechanisms, for the development, operation, expansion and enhancement of the Statewide network of community-based, prevention-focused, family resource and support programs;

(7) shall describe the results of a peer review process conducted under the State program; and

(8) shall demonstrate an implementation plan to ensure the continued leadership of parents in the on-going planning, implementation, and evaluation of such community based¹, prevention-focused, family resource and support programs.

(42 U.S.C. 5116f)

SEC. 208. NATIONAL NETWORK FOR COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.

The Secretary may allocate such sums as may be necessary from the amount provided under the State allotment to support the activities of the lead entity in the State—

(1) to create, operate and maintain a peer review process;

(2) to create, operate and maintain an information clearinghouse;

(3) to fund a yearly symposium on State system change efforts that result from the operation of the Statewide¹ networks of community-based, prevention-focused, family resource and support programs;

(4) to create, operate and maintain a computerized communication system between lead entities; and

(5) to fund State-to-State technical assistance through bi-annual conferences.

(42 U.S.C. 5116g)

¹ So in law. Probably should read "community-based".

SEC. 209. DEFINITIONS.

For purposes of this title:

(1) **CHILDREN WITH DISABILITIES.**—The term “children with disabilities” has the same meaning given such term in section 602(a)(2) of the Individuals with Disabilities Education Act.

(2) **COMMUNITY REFERRAL SERVICES.**—The term “community referral services” means services provided under contract or through interagency agreements to assist families in obtaining needed information, mutual support and community resources, including respite care services, health and mental health services, employability development and job training, and other social services, including early developmental screening of children, through help lines or other methods.

(3) **FAMILY RESOURCE AND SUPPORT PROGRAM.**—The term “family resource and support program” means a community-based, prevention-focused entity that—

(A) provides, through direct service, the core services required under this title, including—

(i) parent education, support and leadership services, together with services characterized by relationships between parents and professionals that are based on equality and respect, and designed to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children;

(ii) services to facilitate the ability of parents to serve as resources to one another (such as through mutual support and parent self-help groups);

(iii) outreach services provided through voluntary home visits and other methods to assist parents in becoming aware of and able to participate in family resources and support program activities;

(iv) community and social services to assist families in obtaining community resources; and

(v) follow-up services;

(B) provides, or arranges for the provision of, other core services through contracts or agreements with other local agencies, including all forms of respite care services; and

(C) provides access to optional services, directly or by contract, purchase of service, or interagency agreement, including—

(i) child care, early childhood development and early intervention services;

(ii) referral to self-sufficiency and life management skills training;

(iii) referral to education services, such as scholastic tutoring, literacy training, and General Educational Degree services;

(iv) referral to services providing job readiness skills;

(v) child abuse and neglect prevention activities;

(vi) referral to services that families with children with disabilities or special needs may require;

- (vii) community and social service referral, including early developmental screening of children;
- (viii) peer counseling;
- (ix) referral for substance abuse counseling and treatment; and
- (x) help line services.

(4) **OUTREACH SERVICES.**—The term “outreach services” means services provided to assist consumers, through voluntary home visits or other methods, in accessing and participating in family resource and support program activities.

(5) **RESPIRE CARE SERVICES.**—The term “respite care services” means short term care services provided in the temporary absence of the regular caregiver (parent, other relative, foster parent, adoptive parent, or guardian) to children who—

- (A) are in danger of abuse or neglect;
- (B) have experienced abuse or neglect; or
- (C) have disabilities, chronic, or terminal illnesses.

Such services shall be provided within or outside the home of the child, be short-term care (ranging from a few hours to a few weeks of time, per year), and be intended to enable the family to stay together and to keep the child living in the home and community of the child.

(42 U.S.C. 5116h)

SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title, \$66,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2001.

(42 U.S.C. 5116i)

[TITLE III—REPEALED]

NOTES

Section 109(f) of this Act provides as follows:

“(f) **FUNDS AVAILABLE.**—For grants under this section, the Secretary shall use the amount authorized by section 1404A of the Victims of Crime Act of 1984.”

As stated in footnote 2 on page 20, section 1404A of the Victims of Crime Act of 1984 has several references that are probably inconsistent with the intent of the Congress regarding the relationship between such Act and this Act.

Section 1404A probably should be amended by striking “section 1402(d)(2)(D) and (d)(3). for” and inserting “paragraphs (2) and (3)(B) of section 1402(d) for”, and also by striking “section 4(d)” and inserting “section 109”. An explanation follows:

With respect to the general relationship between the two Acts: The Victims of Crime Act of 1984 is chapter XIV of title II of Public Law 98–473 (98 Stat. 2170). Section 1402 of such chapter (42 U.S.C. 10601) establishes the Crime Victims Fund (in this note referred to as the “Fund”). Section 1402(d) provides that certain amounts in the Fund are available for grants under section 1404A (42 U.S.C. 10603a), which section 1404A provides that the amounts are for grants under section 4(d) of this Act (the Child Abuse Prevention and Treatment Act).

Such section 1404A and such section 4(d) were added to their respective Acts by Public Law 99–401 (100 Stat. 903).

The reference in section 1404A to section 4(d) probably should be a reference to section 109. There currently is no section 4 in this Act. Much of the text of former section 4(d) was included in section 10 of this Act when this Act was amended in

its entirety by section 101 of Public Law 100-294 (102 Stat. 102), and section 10 subsequently was redesignated as section 109 by section 3(a)(1) of Public Law 101-126 (103 Stat. 764). See also the reference in section 109(f) of this Act.

With respect to use of the Fund for certain grants under this Act versus use of the Fund for grants to assist Native American Indian Tribes: Section 1402(g)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(g)(1)), which was added by Public Law 100-690 (see 102 Stat. 4422), identifies certain amounts in the Fund that are for grants under section 1404A and then directs the Attorney General to use 15 percent of such amounts for grants to assist Native American Indian Tribes. Thus, such section 1402(g)(1) makes an allocation (15 percent) from amounts that otherwise would be available for certain grants under this Act (as section 1404A provides amounts for such grants, as discussed above).

Two Public Laws in the 103d Congress amended the relevant Fund provisions (sections 1402 and 1404A), affecting both the amount that is available for grants under section 1404A and the 15-percent allocation from such amount. These laws are Public Law 103-121 and Public Law 103-322.

As to the availability of the Fund for grants under section 1404A, Public Law 103-121 (see 107 Stat. 1164) amended section 1402(d) with the result that both paragraphs (2)(D) and (3) of such section made available amounts for grants under section 1404A. (A conforming amendment was made to section 1404A to correct references to section 1402(d); this amendment resulted in a superfluous period.)

As to the 15-percent allocation, such Public Law amended section 1402(g)(1) with the result that the allocation applied to the amounts specified in paragraph (2)(D) of section 1402(d), but not to the amounts specified in paragraph (3) of such section.

The relevant Fund provisions were then amended by Public Law 103-322. As to the availability of the Fund for grants under section 1404A, such Public Law (see 108 Stat. 2079, 2151) amended section 1402(d) with the result that now paragraphs (2) and (3)(B) of section 1402(d) make amounts available for grants under section 1404A (rather than paragraphs (2)(D) and (3), as under Public Law 103-121).

As to the 15-percent allocation, Public Law 103-322 (108 Stat. 2079) amended section 1402(g)(1) with the result that the allocation now applies to the amounts specified in paragraph (2) of section 1402(d), but not to the amounts specified in paragraph (3)(B) of such section.

Public Law 103-322 did not make any conforming amendments to section 1404A, and therefore (as a result of the amendment made by Public Law 103-121) section 1404A continues to refer to paragraphs (2)(D) and (3) of section 1402(d), rather than having the correct references, which are to paragraphs (2) and (3)(B).

In summary, section 1404A probably should be amended by striking “section 1402(d)(2)(D) and (d)(3). for” and inserting “paragraphs (2) and (3)(B) of section 1402(d) for”, and also by striking “section 4(d)” and inserting “section 109”.

With respect to executing the amendments described in Public Law 103-322, note that two sections of such Law amended section 1402(d). The probable intent of the Congress was that the second occurrence of amendments be executed to section 1402(d) as such section appeared after the amendments made by the first occurrence.

The first occurrence of amendments was in section 230201 of such Law (108 Stat. 2079), and the result of these was that only paragraph (2) of section 1402(d) made available amounts in the Fund for grants under section 1404A. As to the 15-percent allocation, a conforming amendment was made to section 1402(g)(1).

The second occurrence in such Public Law was in section 330025 (108 Stat. 2151), which amended paragraph (3)(B) of section 1402(d) by striking “1404(a)” and inserting “1404A”. Therefore, both paragraphs (2) and (3)(B) now make amounts available for grants under section 1404A, but the 15-percent allocation applies only to the amounts provided by paragraph (2), as no conforming amendment was made to section 1402(g)(1).

**CHILD ABUSE PREVENTION, ADOPTION, AND FAMILY
SERVICES ACT OF 1988**¹

* * * * *

SEC. 102.² **CHILD ABUSE AND DISABILITY.**

(a) **STUDY.**—The Director of the National Center on Child Abuse and Neglect shall conduct a study of—

(1) the incidence of child abuse among children with handicaps, including children in out-of-home placements, and the relationship between child abuse and children's handicapping conditions; and

(2) the incidence of children who have developed handicapping conditions as a result of child abuse or neglect.

(b) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Director shall report to the appropriate committees of Congress with respect to the study conducted pursuant to subsection (a). The report shall include—

(1) the information and data gathered;

(2) an analysis of such information and data; and

(3) recommendations on how to prevent abuse of disabled children.

(42 U.S.C. 5105 note)

SEC. 103. CHILD ABUSE AND ALCOHOLIC FAMILIES.

(a) **STUDY.**—The Director of the National Center on Child Abuse and Neglect shall conduct a study of the incidence of child abuse in alcoholic families and the relationship between child abuse and familial alcoholism.

(b) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Director shall report to the appropriate committees of Congress with respect to the study conducted pursuant to subsection (a). The report shall include—

(1) the information and data gathered;

(2) an analysis of such information and data; and

(3) recommendations on how to prevent child abuse in alcoholic families.

(42 U.S.C. 5105 note)

SEC. 104. STUDY OF GUARDIAN-AD-LITEM.

(a) **STUDY.**—The Director of the National Center on Child Abuse and Neglect shall conduct a study of—

(1) how individual legal representation of children in cases of child abuse or neglect has been provided in each State; and

¹Public Law 100-294.

²Section 101 of the Act amended the Child Abuse Prevention and Treatment Act in its entirety.

(2) the effectiveness of legal representation of children in cases of abuse or neglect through the use of guardian-ad-litem and court appointed special advocates.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director shall report to the appropriate committees of Congress with respect to the study conducted pursuant to subsection (a). The report shall include—

- (1) the information and data gathered;
- (2) an analysis of such information and data; and
- (3) recommendations on how to improve legal representation of children in cases of abuse or neglect.

(42 U.S.C. 5105 note)

SEC. 105. HIGH RISK STUDY.

(a) STUDY.—The Director of the National Center on Child Abuse and Neglect shall conduct a study—

- (1) to identify groups which have been historically underserved or unserved by programs relating to child abuse and neglect; and
- (2) to report the incidence of child abuse and neglect among children who are members of such groups.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director shall report to the appropriate committees of Congress with respect to the study conducted pursuant to subsection (a). The report shall include—

- (1) the information and data gathered;
- (2) an analysis of such information and data; and
- (3) recommendations on how to better meet the needs of underserved or unserved groups.

(42 U.S.C. 5105 note)

SEC. 106. PRESIDENTIAL COMMISSION ON CHILD AND YOUTH DEATHS.

(a) FINDINGS.—The Congress finds that—

- (1) even by conservative estimates, during 1985 and 1986, child abuse fatalities in this country increased by 23 percent;
- (2) the average age of children who die from abuse and neglect is two years old;
- (3) child abuse fatalities are not inherently predictable but many are preventable;
- (4) many accidental childhood injuries are likewise preventable;
- (5) accidental childhood injuries remain the biggest killer and disabler of children between the ages of 1 and 14;
- (6) in the face of stagnating infant mortality indicators, the United States is now tied for last place among 20 industrialized nations with respect to infant mortality;
- (7) the teen suicide rate is starting to climb again, with deaths totaling over 5,000 in 1986; and
- (8) homicide is the second leading cause of death in youths aged fourteen to twenty-four years.

(b) ESTABLISHMENT OF COMMISSION.—There is established a National Commission on Child and Youth Deaths (hereafter in this section referred to as the “Commission”). The Commission shall be composed of fifteen members as follows:

(1) Two members of the Senate, one to be selected by the Majority Leader of the Senate, the other to be selected by the Minority Leader of the Senate.

(2) Two members of the House, one to be selected by the Speaker of the House of Representatives, the other to be selected by the Minority Leader of the House.

(3) Four representatives of State government shall be selected by the President:

(A) The chief executive officer of a State.

(B) A chief State official responsible for administering child health and mental health programs.

(C) A chief State official responsible for administering children's social services programs.

(D) A chief State official responsible for administering law enforcement programs.

(4) The Secretary of Health and Human Services.

(5) Six at large members, including representatives of community-based organizations with demonstrated expertise in the prevention and identification of child and youth deaths due to child abuse and neglect, infant mortality (including sudden infant death syndrome), suicide, homicide, and unintentional injuries, to be jointly selected by the Majority Leader of the Senate and Speaker of the House of Representatives.

(c) STUDY AND EVALUATION BY THE COMMISSION.—The Commission shall study and evaluate comprehensively Federal, State, and local public and private resources which affect child and youth deaths and shall—

(1) evaluate the adequacy and effectiveness of programs designed to prevent or identify child and youth deaths which are intentionally caused or which occur due to negligence, neglect, or a failure to exercise proper care, including child health and mental health services, child protective services, child welfare services, education, juvenile justice services, and law enforcement activities;

(2) evaluate the effectiveness of current Federal, State, and local policies and systems aimed at appropriately identifying and collecting accurate, uniform data on child and youth deaths in a coordinated fashion;

(3) evaluate the adequacy of current Federal, State, and local efforts to enable an appropriate distribution of properly trained child health, mental health, social services, protective services, education, juvenile justice, and law enforcement personnel to prevent and identify child and youth deaths; and

(4) identify current resource limitations on and intergovernmental and Federal interagency barriers to the care needed to prevent high child and youth death rates.

In order to conduct the study and evaluation required by this subsection, the Commission shall hold hearings in areas of the United States with high child and youth death rates.

(d) RECOMMENDATIONS AND REPORT OF THE COMMISSION.—(1) The Commission shall make recommendations with respect to—

(A) a national policy designed to reduce and prevent child and youth deaths, including recommendations for more accurate reporting systems and recommendations concerning ap-

propriate roles for the Federal Government, States, and local governments and the private sector;

(B) specific changes needed in Federal laws and Federal programs to achieve an effective Federal role in preventing child and youth deaths, including the programs specified in subparagraph (A); and

(C) specific changes needed to improve national data collection with respect to child and youth deaths.

In making its recommendations, the Commission shall review recommendations made in recent regional and national conferences and reports on child and youth deaths.

(2) Within 12 months after the appointment of the Commission, the Commission shall prepare and transmit to the President and the appropriate committees of the Congress a report describing the activities of the Commission and containing information gathered and evaluations required by subsection (c) and recommendations required by paragraph (1) of this subsection.

(e) ADMINISTRATION PROVISIONS.—(1) A vacancy in the Commission shall be filled in the same manner as the original appointment was made. A vacancy in the Commission shall not affect its powers.

(2) Members shall be appointed for the life of the Commission.

(3) The members of the Commission shall elect a Chairman from among the members of the Commission.

(4) Eleven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(5) The Commission shall hold its first meeting on a date specified by the President which is not later than 90 days after October 1, 1988. Thereafter, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least three times during the life of the Commission.

(f) COMPENSATION OF MEMBERS.—(1) Each member of the Commission who is not an officer or employee of the United States shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such member is engaged in the actual performance of duties as a member of the Commission. Each member of the Commission who is an officer or employee of the United States shall receive no additional compensation.

(2) While away from their homes or regular place of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) EXECUTIVE DIRECTOR OF COMMISSION.—(1) The Commission shall appoint an Executive Director who shall be compensated at a rate not to exceed the rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(3) The Executive Director and the additional personnel of the Commission referred to in paragraph (2) may be appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(4) Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed \$200 per day.

(5) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section.

(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative and support services as the Commission may request.

(h) POWERS OF COMMISSION.—(1) For the purpose of carrying out this section, the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subsection.

(3) The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out this section. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(i) AUTHORIZATION OF APPROPRIATIONS.—For fiscal years beginning after September 30, 1987, there are authorized to be appropriated such sums as may be necessary to carry out this section.

(j) TERMINATION.—The Commission shall terminate 90 days after the date on which the Commission transmits the report required under subsection (d)(2) to the President and the appropriate committees of Congress.

(42 U.S.C. 5101 note)

**CHILD ABUSE PREVENTION AND TREATMENT AND
ADOPTION REFORM ACT OF 1978¹**

AN ACT To promote the healthy development of children who would benefit from adoption by facilitating their placement in adoptive homes, to extend and improve the provisions of the Child Abuse Prevention and Treatment Act, and for other purposes.

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 "Child Abuse Prevention and Treatment and Adoption Reform Act of 1978".

**TITLE I—AMENDMENTS TO CHILD ABUSE PREVENTION
AND TREATMENT ACT**

* * * * *

TITLE II—ADOPTION OPPORTUNITIES

SEC. 201. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the number of children in substitute care increased by nearly 61 percent between 1986 and 1994, as our Nation's foster care population included more than 452,000 as of June 1994;

(2) increasingly children entering foster care have complex problems which require intensive services;

(3) an increasing number of infants are born to mothers who did not receive prenatal care, are born addicted to alcohol and other drugs, and exposed to infection with the etiologic agent for the human immunodeficiency virus, are medically fragile, and technology dependent;

(4) the welfare of thousands of children in institutions and foster homes and disabled infants with life-threatening conditions may be in serious jeopardy and some such children are in need of placement in permanent, adoptive homes;

(5) many thousands of children remain in institutions or foster homes solely because of legal and other barriers to their placement in permanent, adoptive homes;

(6) the majority of such children are of school age, members of sibling groups or disabled;

(7)(A) currently, 40,000 children are free for adoption and awaiting placement;

(B) such children are typically school aged, in sibling groups, have experienced neglect or abuse, or have a physical, mental, or emotional disability; and

¹Public Law 95-266.

(C) while the children are of all races, children of color and older children (over the age of 10) are over represented in such group;

(8) adoption may be the best alternative for assuring the healthy development of such children;

(9) there are qualified persons seeking to adopt such children who are unable to do so because of barriers to their placement; and

(10) in order both to enhance the stability and love of the child's home environment and to avoid wasteful expenditures of public funds, such children should not have medically indicated treatment withheld from them nor be maintained in foster care or institutions when adoption is appropriate and families can be found for such children.

(b) PURPOSE.—It is the purpose of this title to facilitate the elimination of barriers to adoption and to provide permanent and loving home environments for children who would benefit from adoption, particularly children with special needs, including disabled infants with life-threatening conditions, by providing a mechanism to—

(1) promote quality standards for adoption services, pre-placement, post-placement, and post-legal adoption counseling, and standards to protect the rights of children in need of adoption;

(2) maintain a national adoption information exchange system to bring together children who would benefit from adoption and qualified prospective adoptive parents who are seeking such children, and conduct national recruitment efforts in order to reach prospective parents for children awaiting adoption; and

(3) demonstrate expeditious ways to free children for adoption for whom it has been determined that adoption is the appropriate plan.

(42 U.S.C. 5111)

INFORMATION AND SERVICES

SEC. 203.¹ (a) The Secretary shall establish in the Department of Health and Human Services an appropriate administrative arrangement to provide a centralized focus for planning and coordinating of all departmental activities affecting adoption and foster care and for carrying out the provisions of this title. The Secretary shall make available such consultant services, on-site technical assistance and personnel, together with appropriate administrative expenses, including salaries and travel costs, as are necessary for carrying out such purposes, including services to facilitate the adoption of children with special needs and particularly of disabled infants with life-threatening conditions and services to couples considering adoption of children with special needs.

(b) In connection with carrying out the provisions of this title, the Secretary shall—

(1) conduct (directly or by grant to or contract with public or private nonprofit agencies or organizations) an education and training program on adoption, and prepare, publish, and

¹ Section 202 was repealed by section 402 of Public Law 102-295.

disseminate (directly or by grant to or contract with public or private nonprofit agencies and organizations) to all interested parties, public and private agencies and organizations (including, but not limited to, hospitals, health care and family planning clinics, and social services agencies), and governmental bodies, information and education and training materials regarding adoption and adoption assistance programs;

(2) conduct, directly or by grant or contract with public or private nonprofit organizations, ongoing, extensive recruitment efforts on a national level, develop national public awareness efforts to unite children in need of adoption with appropriate adoptive parents, and establish a coordinated referral system of recruited families with appropriate State or regional adoption resources to ensure that families are served in a timely fashion;

(3) notwithstanding any other provision of law, provide (directly or by grant to or contract with public or private nonprofit agencies or organizations) for (A) the operation of a national adoption information exchange system (including only such information as is necessary to facilitate the adoptive placement of children, utilizing computers and data processing methods to assist in the location of children who would benefit by adoption and in the placement in adoptive homes of children awaiting adoption); and (B) the coordination of such system with similar State and regional systems;

(4) provide (directly or by grant to or contract with public or private nonprofit agencies or organizations, including adoptive family groups and minority groups) for the provision of technical assistance in the planning, improving, developing, and carrying out of programs and activities relating to adoption, and to promote professional leadership training of minorities in the adoption field;

(5) encourage involvement of corporations and small businesses in supporting adoption as a positive family-strengthening option, including the establishment of adoption benefit programs for employees who adopt children;

(6) study the nature, scope, and effects of the placement of children in kinship care arrangements, pre-adoptive, or adoptive homes;

(7) study the efficacy of States contracting with public or private nonprofit agencies (including community-based and other organizations), or sectarian institutions for the recruitment of potential adoptive and foster families and to provide assistance in the placement of children for adoption;

(8) consult with other appropriate Federal departments and agencies in order to promote maximum coordination of the services and benefits provided under programs carried out by such departments and agencies with those carried out by the Secretary, and provide for the coordination of such aspects of all programs within the Department of Health and Human Services relating to adoption;

(9) maintain (directly or by grant to or contract with public or private nonprofit agencies or organizations) a National Resource Center for Special Needs Adoption to—

- (A) promote professional leadership development of minorities in the adoption field;
 - (B) provide training and technical assistance to service providers and State agencies to improve professional competency in the field of adoption and the adoption of children with special needs; and
 - (C) facilitate the development of interdisciplinary approaches to meet the needs of children who are waiting for adoption and the needs of adoptive families; and
- (10) provide (directly or by grant to or contract with States, local government entities, public or private nonprofit licensed child welfare or adoption agencies or adoptive family groups and community-based organizations with experience in working with minority populations) for the provision of programs aimed at increasing the number of minority children (who are in foster care and have the goal of adoption) placed in adoptive families, with a special emphasis on recruitment of minority families—
- (A) which may include such activities as—
 - (i) outreach, public education, or media campaigns to inform the public of the needs and numbers of such children;
 - (ii) recruitment of prospective adoptive families for such children;
 - (iii) expediting, where appropriate, the legal availability of such children;
 - (iv) expediting, where appropriate, the agency assessment of prospective adoptive families identified for such children;
 - (v) formation of prospective adoptive family support groups;
 - (vi) training of personnel of—
 - (I) public agencies;
 - (II) private nonprofit child welfare and adoption agencies that are licensed by the State; and
 - (III) adoptive parents organizations and community-based organizations with experience in working with minority populations;
 - (vii) use of volunteers and adoptive parent groups;
 - and
 - (viii) any other activities determined by the Secretary to further the purposes of this Act; and
- (B) shall be subject to the condition that such grants or contracts may be renewed if documentation is provided to the Secretary demonstrating that appropriate and sufficient placements of such children have occurred during the previous funding period.
- (c)(1) The Secretary shall provide (directly or by grant to or contract with States, local government entities, public or private nonprofit licensed child welfare or adoption agencies or adoptive family groups) for the provision of post legal adoption services for families who have adopted special needs children.
- (2) Services provided under grants made under this subsection shall supplement, not supplant, services from any other funds available for the same general purposes, including—

- (A) individual counseling;
- (B) group counseling;
- (C) family counseling;
- (D) case management;
- (E) training public agency adoption personnel, personnel of private, nonprofit child welfare and adoption agencies licensed by the State to provide adoption services, mental health services professionals, and other support personnel to provide services under this subsection;
- (F) assistance to adoptive parent organizations; and
- (G) assistance to support groups for adoptive parents, adopted children, and siblings of adopted children.

(d)(1) The Secretary shall make grants for improving State efforts to increase the placement of foster care children legally free for adoption, according to a pre-established plan and goals for improvement. Grants funded by this section must include a strong evaluation component which outlines the innovations used to improve the placement of special needs children who are legally free for adoption, and the successes and failures of the initiative. The evaluations will be submitted to the Secretary who will compile the results of projects funded by this section and submit a report to the appropriate committees of Congress. The emphasis of this program must focus on the improvement of the placement rate—not the aggregate number of special needs children placed in permanent homes. The Secretary, when reviewing grant applications shall give priority to grantees who propose improvements designed to continue in the absence of Federal funds.

(2)(A) Each State entering into an agreement under this subsection shall submit an application to the Secretary that describes the manner in which the State will use funds during the 3 fiscal years subsequent to the date of the application to accomplish the purposes of this section. Such application shall be in a form and manner determined to be appropriate by the Secretary. Each application shall include verification of the placements described in paragraph (1).

(B) The Secretary shall provide, directly or by grant to or contract with public or private nonprofit agencies or organizations—

(i) technical assistance and resource and referral information to assist State or local governments with termination of parental rights issues, in recruiting and retaining adoptive families, in the successful placement of children with special needs, and in the provision of pre- and post-placement services, including post-legal adoption services; and

(ii) other assistance to help State and local governments replicate successful adoption-related projects from other areas in the United States.

(3)(A) Payments under this subsection shall begin during fiscal year 1989. Payments under this section during any fiscal year shall not exceed \$1,000,000. No payment may be made under this subsection unless an amount in excess of \$5,000,000 is appropriated for such fiscal year under section 205(a).

(B) Any payment made to a State under this subsection which is not used by such State for the purpose provided in paragraph (1) during the fiscal year payment is made shall revert to the Sec-

retary on October 1st of the next fiscal year and shall be used to carry out the purposes of this Act.

(42 U.S.C. 5113)

STUDY OF UNLICENSED ADOPTION PLACEMENTS

SEC. 204. The Secretary shall provide for a study (the results of which shall be reported to the appropriate committees of the Congress not later than eighteen months after the date of enactment of this Act) designed to determine the nature, scope, and effects of the interstate (and, to the extent feasible, intrastate) placement of children in adoptive homes (not including the homes of stepparents or relatives of the child in question) by persons or agencies which are not licensed by or subject to regulation by any governmental entity.

(42 U.S.C. 5114)

AUTHORIZATION OF APPROPRIATIONS

SEC. 205. (a) There are authorized to be appropriated, \$20,000,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001 to carry out programs and activities authorized.

(b) The Secretary shall ensure that funds appropriated pursuant to authorizations in this Act shall remain available until expended for the purposes for which they were appropriated.

(42 U.S.C. 5115)

ABANDONED INFANTS ASSISTANCE ACT OF 1988¹

AN ACT To authorize the Secretary of Health and Human Services to make grants for demonstration projects for foster care and residential care of infants and young children abandoned in hospitals, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Abandoned Infants Assistance Act of 1988”.

(42 U.S.C. 670 note)

SEC. 2. FINDINGS.

The Congress finds that—

(1) throughout the Nation, the number of infants and young children who have been exposed to drugs taken by their mothers during pregnancy has increased dramatically;

(2) the inability of parents who abuse drugs to provide adequate care for such infants and young children and a lack of suitable shelter homes for such infants and young children have led to the abandonment of such infants and young children in hospitals for extended periods;

(3) an unacceptable number of these infants and young children will be medically cleared for discharge, yet remain in hospitals as boarder babies;

(4) hospital-based child care for these infants and young children is extremely costly and deprives them of an adequate nurturing environment;

(5) training is inadequate for foster care personnel working with medically fragile infants and young children and infants and young children exposed to drugs;

(6) a particularly devastating development is the increase in the number of infants and young children who are infected with the human immunodeficiency virus (which is believed to cause acquired immune deficiency syndrome and which is commonly known as HIV) or who have been perinatally exposed to the virus or to a dangerous drug;

(7) many such infants and young children have at least one parent who is an intravenous drug abuser;

(8) such infants and young children are particularly difficult to place in foster homes, and are being abandoned in hospitals in increasing numbers by mothers dying of acquired immune deficiency syndrome, or by parents incapable of providing adequate care;

(9) there is a need for comprehensive services for such infants and young children, including foster family care services,

¹Public Law 100-505.

case management services, family support services, respite and crisis intervention services, counseling services, and group residential home services;

(10) there is a need to support the families of such infants and young children through the provision of services that will prevent the abandonment of the infants and children; and

(11) there is a need for the development of funding strategies that coordinate and make the optimal use of all private resources, and Federal, State, and local resources, to establish and maintain such services.

(42 U.S.C. 670 note)

TITLE I—PROJECTS REGARDING ABANDONMENT OF INFANTS AND YOUNG CHILDREN IN HOSPITALS

SEC. 101. ESTABLISHMENT OF PROGRAM OF DEMONSTRATION PROJECTS.

(a) IN GENERAL.—The Secretary of Health and Human Services may make grants to public and nonprofit private entities for the purpose of developing, implementing, and operating projects to demonstrate methods—

(1) to prevent the abandonment of infants and young children, including the provision of services to members of the natural family for any condition that increases the probability of abandonment of an infant or young child;

(2) to identify and address the needs of abandoned infants and young children;

(3) to assist abandoned infants and young children to reside with their natural families or in foster care, as appropriate;

(4) to recruit, train, and retain foster families for abandoned infants and young children;

(5) to carry out residential care programs for abandoned infants and young children who are unable to reside with their families or to be placed in foster care;

(6) to carry out programs of respite care for families and foster families of infants and young children described in subsection (b);

(7) to recruit and train health and social services personnel to work with families, foster care families, and residential care programs for abandoned infants and young children; and

(8) to prevent the abandonment of infants and young children, and to care for the infants and young children who have been abandoned, through model programs providing health, educational, and social services at a single site in a geographic area in which a significant number of infants and young children described in subsection (b) reside (with special consideration given to applications from entities that will provide the services of the project through community-based organizations).

(b) PRIORITY IN PROVISION OF SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the

grant agrees that, in carrying out the purpose described in subsection (a) (other than with respect to paragraph (6) of such subsection), the applicant will give priority to abandoned infants and young children—

(1) who are infected with the human immunodeficiency virus or who have been perinatally exposed to the virus; or

(2) who have been perinatally exposed to a dangerous drug.

(c) CASE PLAN WITH RESPECT TO FOSTER CARE.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, if the applicant expends the grant to carry out any program of providing care to infants and young children in foster homes or in other nonmedical residential settings away from their parents, the applicant will ensure that—

(1) a case plan of the type described in paragraph (1) of section 475 of the Social Security Act is developed for each such infant and young child (to the extent that such infant and young child is not otherwise covered by such a plan); and

(2) the program includes a case review system of the type described in paragraph (5) of such section (covering each such infant and young child who is not otherwise subject to such a system).

(d) ADMINISTRATION OF GRANT.—

(1) The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees—

(A) to use the funds provided under this section only for the purposes specified in the application submitted to, and approved by, the Secretary pursuant to subsection (e);

(B) to establish such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement and accounting of Federal funds paid to the applicant under this section;

(C) to report to the Secretary annually on the utilization, cost, and outcome of activities conducted, and services furnished, under this section; and

(D) that if, during the majority of the 180-day period preceding the date of the enactment of this Act, the applicant has carried out any program with respect to the care of abandoned infants and young children, the applicant will expend the grant only for the purpose of significantly expanding, in accordance with subsection (a), activities under such program above the level provided under such program during the majority of such period.

(2) Subject to the availability of amounts made available in appropriations Acts for the fiscal year involved, the duration of a grant under subsection (a) shall be for a period of 3 years, except that the Secretary—

(A) may terminate the grant if the Secretary determines that the entity involved has substantially failed to comply with the agreements required as a condition of the provision of the grant; and

(B) shall continue the grant for one additional year if the Secretary determines that the entity has satisfactorily complied with such agreements.

(e) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless—

(1) an application for the grant is submitted to the Secretary;

(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(f) TECHNICAL ASSISTANCE TO GRANTEES.—The Secretary may, without charge to any grantee under subsection (a), provide technical assistance (including training) with respect to the planning, development, and operation of projects described in such subsection. The Secretary may provide such technical assistance directly, through contracts, or through grants.

(g) TECHNICAL ASSISTANCE WITH RESPECT TO PROCESS OF APPLYING FOR GRANT.—The Secretary may provide technical assistance (including training) to public and nonprofit private entities with respect to the process of applying to the Secretary for a grant under subsection (a). The Secretary may provide such technical assistance directly, through contracts, or through grants.

(h) PRIORITY REQUIREMENT.—In making grants under subsection (a), the Secretary shall give priority to applicants located in States that have developed and implemented procedures for expedited termination of parental rights and placement for adoption of infants determined to be abandoned under State law.

(42 U.S.C. 670 note)

SEC. 102. EVALUATIONS, STUDIES, AND REPORTS BY SECRETARY.

(a) EVALUATIONS OF DEMONSTRATION PROJECTS.—The Secretary shall, directly or through contracts with public and nonprofit private entities, provide for evaluations of projects carried out under section 101 and for the dissemination of information developed as result of such projects.

(b) DISSEMINATION OF INFORMATION TO INDIVIDUALS WITH SPECIAL NEEDS.—

(1)(A) The Secretary may enter into contracts or cooperative agreements with public or nonprofit private entities for the development and operation of model projects to disseminate the information described in subparagraph (B) to individuals who are disproportionately at risk of dysfunctional behaviors that lead to the abandonment of infants or young children.

(B) The information referred to in subparagraph (A) is information on the availability to individuals described in such subparagraph, and the families of the individuals, of financial assistance and services under Federal, State, local, and private programs providing health services, mental health services, educational services, housing services, social services, or other appropriate services.

(2) The Secretary may not provide a contract or cooperative agreement under paragraph (1) to an entity unless—

(A) the entity has demonstrated expertise in the functions with respect to which such financial assistance is to be provided; and

(B) the entity agrees that in disseminating information on programs described in such paragraph, the entity will give priority—

(i) to providing the information to individuals described in such paragraph who—

(I) engage in the abuse of alcohol or drugs, who are infected with the human immunodeficiency virus, or who have limited proficiency in speaking the English language; or

(II) have been historically underserved in the provision of the information; and

(ii) to providing information on programs that are operated in the geographic area in which the individuals involved reside and that will assist in eliminating or reducing the extent of behaviors described in such paragraph.

(3) In providing contracts and cooperative agreements under paragraph (1), the Secretary may not provide more than 1 such contract or agreement with respect to any geographic area.

(4) Subject to the availability of amounts made available in appropriations Acts for the fiscal year involved, the duration of a contract or cooperative agreement under paragraph (1) shall be for a period of 3 years, except that the Secretary may terminate such financial assistance if the Secretary determines that the entity involved has substantially failed to comply with the agreements required as a condition of the provision of the assistance.

(c) STUDY AND REPORT ON NUMBER OF ABANDONED INFANTS AND YOUNG CHILDREN.—

(1) The Secretary shall conduct a study for the purpose of determining—

(A) an estimate of the number of infants and young children abandoned in hospitals in the United States and the number of such infants and young children who are infants and young children described in section 101(b); and

(B) an estimate of the annual costs incurred by the Federal Government and by State and local governments in providing housing and care for such infants and young children.

(2) Not later than April 1, 1992, the Secretary shall complete the study required in paragraph (1) and submit to the Congress a report describing the findings made as a result of the study.

(d) STUDY AND REPORT ON EFFECTIVE CARE METHODS.—

(1) The Secretary shall conduct a study for the purpose of determining the most effective methods for responding to the needs of abandoned infants and young children.

(2) The Secretary shall, not later than April 1, 1991, complete the study required in paragraph (1) and submit to the Congress a report describing the findings made as a result of the study.

(42 U.S.C. 670 note)

SEC. 103. DEFINITIONS.

For purposes of this title:

(1) The terms “abandoned” and “abandonment”, with respect to infants and young children, mean that the infants and young children are medically cleared for discharge from acute-care hospital settings, but remain hospitalized because of a lack of appropriate out-of-hospital placement alternatives.

(2) The term “dangerous drug” means a controlled substance, as defined in section 102 of the Controlled Substances Act.

(3) The term “natural family” shall be broadly interpreted to include natural parents, grandparents, family members, guardians, children residing in the household, and individuals residing in the household on a continuing basis who are in a care-giving situation with respect to infants and young children covered under this Act.

(42 U.S.C. 670 note)

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—

(1) For the purpose of carrying out this title (other than section 102(b)), there are authorized to be appropriated \$35,000,000 for fiscal year 1997 and such sums as may be necessary for each of the fiscal years 1998 through 2001.

(2)(A) Of the amounts appropriated under paragraph (1) for any fiscal year in excess of the amount appropriated under this subsection for fiscal year 1991, as adjusted in accordance with subparagraph (B), the Secretary shall make available not less than 50 percent for grants under section 101(a) to carry out projects described in paragraph (8) of such section.

(B) For purposes of subparagraph (A), the amount relating to fiscal year 1991 shall be adjusted for a fiscal year to a greater amount to the extent necessary to reflect the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with March of the preceding fiscal year.

(3) Not more than 5 percent of the amounts appropriate under paragraph (1) for any fiscal year may be obligated for carrying out section 102(a).

(b) DISSEMINATION OF INFORMATION FOR INDIVIDUALS WITH SPECIAL NEEDS.—For the purpose of carrying out section 102(b), there is authorized to be appropriated \$5,000,000 for each of the fiscal years 1992 through 1995.

(c) ADMINISTRATIVE EXPENSES.—

(1) For the purpose of the administration of this title by the Secretary, there is authorized to be appropriated for each fiscal year specified in subsection (a)(1) an amount equal to 5 percent of the amount authorized in such subsection to be appropriated for the fiscal year. With respect to the amounts appropriated under such subsection, the preceding sentence may not be construed to prohibit the expenditure of the amounts for the purpose described in such sentence.

(2) The Secretary may not obligate any of the amounts appropriated under paragraph (1) for a fiscal year unless, from

the amounts appropriated under subsection (a)(1) for the fiscal year, the Secretary has obligated for the purpose described in such paragraph an amount equal to the amounts obligated by the Secretary for such purpose in fiscal year 1991.

(d) AVAILABILITY OF FUNDS.—Amounts appropriated under this section shall remain available until expended.

(42 U.S.C. 670 note)

TITLE II—MEDICAL COSTS OF TREATMENT WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

SEC. 201. STUDY AND REPORT ON ASSISTANCE.

(a) STUDY.—The Secretary shall conduct a study for the purpose of—

(1) determining cost-effective methods for providing assistance to individuals for the medical costs of treatment of conditions arising from infection with the etiologic agent for acquired immune deficiency syndrome, including determining the feasibility of risk-pool health insurance for individuals at risk of such infection;

(2) determining the extent to which Federal payments under title XIX of the Social Security Act are being expended for medical costs described in paragraph (1); and

(3) providing an estimate of the extent to which such Federal payments will be expended for such medical costs during the 5-year period beginning on the date of the enactment of this Act.

(b) REPORT.—The Secretary shall, not later than 12 months after the date of the enactment of this Act, complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.

(42 U.S.C. 670 note)

TITLE III—GENERAL PROVISIONS

SEC. 301. DEFINITIONS.

For purposes of this Act:

(1) The term “acquired immune deficiency syndrome” includes infection with the etiologic agent for such syndrome, any condition indicating that an individual is infected with such etiologic agent, and any condition arising from such etiologic agent.

(2) The term “Secretary” means the Secretary of Health and Human Services.

(42 U.S.C. 670 note)

FAMILY VIOLENCE PREVENTION AND SERVICES ACT¹

SHORT TITLE

SEC. 301. This title may be cited as the “Family Violence Prevention and Services Act”.

(42 U.S.C. 10401 note)

DECLARATION OF PURPOSE

SEC. 302. It is the purpose of this title to—

(1) demonstrate the effectiveness of assisting² States in efforts to increase public awareness about and prevent family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents; and

(2) provide for technical assistance and training relating to family violence programs to States, local public agencies (including law enforcement agencies, courts, legal, social service, and health care professionals), nonprofit private organizations, and other persons seeking such assistance.

(42 U.S.C. 10401)

STATE DEMONSTRATION GRANTS AUTHORIZED

SEC. 303. (a)(1) In order to assist in supporting the establishment, maintenance, and expansion of programs and projects to prevent incidents of family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents, the Secretary is authorized, in accordance with the provisions of this title, to make grants to States.

(2) No grant may be made under this subsection unless the chief executive officer of the State seeking such grant submits an application to the Secretary at such time and in such manner as the Secretary may reasonably require. Each such application shall—

(A) provide that funds provided under this subsection will be distributed in demonstration grants³ to local public agencies and nonprofit private organizations (including religious and charitable organizations, and voluntary associations) for programs and projects within such State to prevent incidents of family violence and to provide immediate shelter and related

¹Title III of Public Law 98–457.

²The amendment described in section 302(1)(A) of Public Law 102–295 cannot be executed. The amendatory instructions provide that paragraph (1) is amended by striking out “demonstration the effectiveness of assisting” and inserting in lieu thereof “assist”. The term “demonstration” does not appear in paragraph (1).

³The amendment described in section 303(2)(B) of Public Law 102–295 cannot be executed. The amendatory instructions provide that subparagraph (A) of paragraph (2) is amended by striking out “demonstration grant” and inserting in lieu thereof “grant”. The term “demonstration grant” does not appear in subparagraph (A).

assistance for victims of family violence and their dependents in order to prevent future violent incidents;

(B) provide, with respect to funds provided to a State under this subsection for any fiscal year, that—

(i) not more than 5 percent of such funds will be used for State administrative costs; and

(ii)¹ in the distribution of funds by the State under this subsection, the State will give special emphasis to the support of community-based projects of demonstrated effectiveness carried out by nonprofit private organizations, the primary purpose of which is to operate shelters for victims of family violence and their dependents, and those which provide counseling, advocacy, and self-help services to victims and their children.

(C) set forth procedures designed to involve State domestic violence coalitions knowledgeable individuals² and interested organizations and assure an equitable distribution of grants and grant funds within the State and between urban and rural areas within such State and a plan to address the needs of underserved populations, including populations underserved because of ethnic, racial, cultural, language diversity or geographic isolation;

(D) specify the State agency to be designated as responsible for the administration of programs and activities relating to family violence which are carried out by the State under this title and for coordination of related programs within the State;

(E) provide documentation that procedures have been developed, and implemented including copies of the policies and procedure, to assure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services by any program assisted under this title and provide assurances that the address or location of any shelter-facility assisted under this title will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public;

(F) provide documentation to the Secretary that the State has a law or procedure that has been implemented for the eviction of an abusing spouse from a share household;³

(G) meet such requirements as the Secretary reasonably determines are necessary to carry out the purposes and provisions of this title.

(3) The Secretary shall approve any application that meets the requirements of this subsection, and the Secretary shall not disapprove any such application except after reasonable notice of the Secretary's intention to disapprove and after a 6-month period providing an opportunity for correction of any deficiencies. The Secretary shall provide such notice within 45 days of the date of the

¹ Section 303(2)(C) of Public Law 102-295 provides that section 303(a)(2) is amended by striking out "particularly those projects" in subparagraph (B)(ii) and all that follows through the end thereof and inserting certain language. The amendment has been executed on the assumption that "thereof" refers to subparagraph (B)(ii) only, rather than paragraph (2). The latter construction would mean that subparagraphs (C) through (G) are struck, which is inconsistent with the amendments described in sections 304 through 306 of the Public Law.

² The language "State domestic violence coalitions knowledgeable individuals" appears in the law. See section 304 of Public Law 102-295.

³ So in law. See section 306 of Public Law 102-295. The subparagraph probably should end with "and".

application if any of the provisions of paragraph (2) have not been satisfied in such application. If the State has not corrected the deficiencies in such application within the 6-month period following the receipt of the Secretary's notice of intention to disapprove, the Secretary shall withhold payment of any grant funds to such State until the date that is 30 days prior to the end of the fiscal year for which such grant funds are appropriated or until such time as the State provides documentation that the deficiencies have been corrected, whichever occurs first. State Domestic Violence Coalitions shall be permitted to participate in determining whether a grantee is in compliance with paragraph (2), except that no funds made available to State Domestic Violence Coalitions under section 311 shall be used to challenge a determination as to whether a grantee is in compliance with, or to seek the enforcement of, the eligibility requirements of such paragraph.

(4)¹ Upon completion of the activities funded by a grant under this subpart, the State grantee shall file a performance report with the Director explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this subpart. A section of this performance report shall be completed by each grantee or subgrantee that performed the direct services contemplated in the application certifying performance of direct services under the grant. The Director shall suspend funding for an approved application if an applicant fails to submit an annual performance report or if the funds are expended for purposes other than those set forth under this subpart, after following the procedures set forth in paragraph (3). Federal funds may be used only to supplement, not supplant, State funds.

(b)(1) The Secretary, from amounts appropriated to carry out this section, shall make available not less than 10 percent of such amounts to make grants to Indian tribes, tribal organizations and nonprofit private organizations approved by an Indian Tribe for the operation of a family violence shelter on a Reservation for projects designed to prevent family violence and to provide immediate shelter and related assistance for victims of family violence and their dependents.

(2) No grant may be made under this subsection unless an application is made to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary deems essential to carry out the purposes and provisions of this title. Such application shall comply, as applicable, with the provisions of clauses (C) (with respect only to involving knowledgeable individuals and organizations), (D), (E) and (F) of subsection (a)(2). No entity eligible to submit an application under paragraph (1) shall be prohibited from making an application during any fiscal year for which funds are available because such entity has not previously applied or received funding under this section.

(3) In the case of a project for which the initial application for a demonstration grant under this subsection is made on or after the date of the enactment of the Child Abuse Programs, Adoption Opportunities, and Family Violence Prevention Amendments Act of 1992, the terms "Indian tribe" and "tribal organization", for pur-

¹ Indentation so in law.

poses of this subsection, have the meaning given such terms in section 4 of the Indian Self-Determination and Education Assistance Act.

(c) No funds provided through demonstration grants made under this section may be used as direct payment to any victim of family violence or to any dependent of such victim.

(d) No income eligibility standard may be imposed upon individuals with respect to eligibility for assistance or services supported with funds appropriated to carry out this title.

(e) No grant may be made under this section to any entity other than a State or an Indian Tribe unless the entity provides for the following non-Federal matching local share as a proportion of the total amount of funds provided under this title to the project involved: with respect to an entity operating an existing program under this title, not less than 20 percent, and with respect to an entity intending to operate a new program under this title, not less than 35 percent. The local share required under this subsection may be in cash or in-kind. The local share may not include any Federal funds provided under any authority other than this title.

(f) The Secretary shall assure that not less than 70 percent of the funds distributed under subsection (a) or (b) shall be distributed to entities for the purpose of providing immediate shelter and related assistance to victims of family violence and their dependents as defined in section 309(4). Not less than 25 percent of the funds distributed under subsection (a) or (b) shall be distributed for the purpose of providing related assistance as defined under section 309(5)(A).

(42 U.S.C. 10402)

ALLOTMENT OF FUNDS

SEC. 304. (a) From the sums appropriated under section 310 and available for grants to States under this subsection for any fiscal year—

(1) Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than $\frac{1}{8}$ of 1 percent of the amounts available for grants under section 303(a) for the fiscal year for which the allotment is made; and

(2) each State shall be allotted for payment in a grant authorized under section 303(a), \$600,000, with the remaining funds to be allotted to each State in an amount that bears the same ratio to such remaining funds as the population of such State bears to the population of all States.

(b) For the purpose of this section, the population of each State, and the total population of all the States, shall be determined by the Secretary on the basis of the most recent census data available to the Secretary, and the Secretary shall use for such purpose, if available, the annual interim current census data produced by the Secretary of Commerce pursuant to section 181 of title 13, United States Code.

(c) If the sums appropriated under section 310 for any fiscal year and available for grants to States authorized under section 303(a) are not sufficient to pay in full the total amounts which all States are entitled to receive under such section for such fiscal

year, then the maximum amounts which all States are entitled to receive under such section for such fiscal year shall be ratably reduced. In the event that additional funds become available for making such grants for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

(d)(1) If, at the end of the sixth month of any fiscal year for which sums are appropriated under section 310, the amount allotted to a State has not been made available to such State in grants under section 303(a) because of the failure of such State to meet the requirements for a grant, then the Secretary shall reallocate such amount to States which meet such requirements.

(2) Funds made available by the Secretary through reallocation under paragraph (1) shall remain available for expenditure until the end of the fiscal year following the fiscal year in which such funds become available for reallocation.

(e) In subsection (a)(2), the term "State" does not include any jurisdiction specified in subsection (a)(1).

(42 U.S.C. 10403)

SECRETARIAL RESPONSIBILITIES

SEC. 305. (a) The Secretary shall appoint an employee of the Department of Health and Human Services to carry out the provisions of this title. The individual appointed under this subsection shall, prior to such appointment, have had expertise in the field of family violence prevention and services.

(b) The Secretary shall—

(1) coordinate all programs within the Department of Health and Human Services, and seek to coordinate all other Federal programs, which involve the prevention of incidents of family violence and the provision of assistance for victims and potential victims of family violence and their dependents, and ensure that such activities as they relate to elderly persons are coordinated with the Administration on Aging and the National Institute on Aging within the Department of Health and Human Services;

(2)(A) provide for research, and into¹ the most effective prevention, identification, and treatment thereof (such as research into (i) the effectiveness of reducing repeated incidents of family violence through a variety of sentencing alternatives, such as incarceration, fines, and counseling programs, individually or in combination, and through the use of civil protection orders removing the abuser from the family household, (ii) the necessity and impact of a mandatory reporting requirement relating to incidents of family violence, particularly abuse of elderly persons), (iii) the effectiveness of providing safety and support to maternal and child victims of family violence as a way to eliminate the abuse experienced by children in such situations, (iv) identification of intervention approaches to child abuse prevention services which appear to be successful in preventing child abuse where both mother and child are abused, (v) effective and appropriate treatment services for children

¹So in law. See section 313(1) of Public Law 102-295. Probably should read "provide for research into".

where both mother and child are abused, and (vi) the individual and situational factors leading to the end of violent and abusive behavior by persons who commit acts of family violence, including such factors as history of previous violence and the legal and service interventions received, and (B) make a complete study and investigation (in consultation with the National Institute on Aging) of the national incidence of abuse, neglect, and exploitation of elderly persons, including a determination of the extent to which incidents of such abuse, neglect, and exploitation are increasing in number or severity; and

(3) provide for the training of personnel and provide technical assistance in the conduct of programs for the prevention and treatment of family violence.

(42 U.S.C. 10404)

EVALUATION

SEC. 306. Not later than two years after the date on which funds are obligated under section 303(a) for the first time after the date of the enactment of this title, and every two years thereafter, the Secretary shall review, evaluate, and report to the appropriate Committees of the Congress, as to the effectiveness of the programs administered and operated pursuant to this title, particularly in relation to repeated incidents of family violence. Such report shall also include a summary of the documentation provided to the Secretary under section 303(a)(2)(B) through 303(a)(2)(F).

(42 U.S.C. 10405)

DISCRIMINATION PROHIBITED

SEC. 307. (a)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this part are considered to be programs and activities receiving Federal financial assistance.

(2) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity funded in whole or in part with funds made available under this title. Nothing in this title shall require any such program or activity to include any individual in any program or activity without taking into consideration that individual's sex in those certain instances where sex is a bona fide occupational qualification or programmatic factor reasonably necessary to the normal operation of that particular program or activity. The Secretary shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such sentence. This paragraph shall not be construed as affecting any other legal remedy.

(b) Whenever the Secretary finds that a State or other entity that has received financial assistance under this title has failed to

comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), the Secretary shall notify the chief executive officer of the State and shall request such officer to secure compliance. If, within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

(1) refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted,

(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, sections 504 and 505 of the Rehabilitation Act of 1973, or title IX of the Education Amendments of 1972, as may be applicable, or

(3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever the Attorney General has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

(42 U.S.C. 10406)

SEC. 308. INFORMATION AND TECHNICAL ASSISTANCE CENTERS.

(a) **PURPOSE AND GRANTS.**—

(1) **PURPOSE.**—It is the purpose of this section to provide resource information, training, and technical assistance to Federal, State, and Indian tribal agencies, as well as to local domestic violence programs and to other professionals who provide services to victims of domestic violence.

(2) **GRANTS.**—From the amounts appropriated under this title, the Secretary shall award grants to private nonprofit organizations for the establishment and maintenance of one national resource center (as provided for in subsection (b)) and not to exceed seven special issue resource centers (as provided for in subsection (c)) focusing on one or more issues of concern to domestic violence victims.

(b) **NATIONAL RESOURCE CENTER.**—The national resource center established under subsection (a)(2) shall offer resource, policy and training assistance to Federal, State, and local government agencies, to domestic violence service providers, and to other professionals and interested parties on issues pertaining to domestic violence, and shall maintain a central resource library in order to collect, prepare, analyze, and disseminate information and statistics and analyses thereof relating to the incidence and prevention of family violence (particularly the prevention of repeated incidents of violence) and the provision of immediate shelter and related assistance.

(c) **SPECIAL ISSUE RESOURCE CENTERS.**—The special issue resource centers established under subsection (a)(2) shall provide information, training and technical assistance to State and local domestic violence service providers, and shall specialize in at least

one of the following areas of domestic violence service, prevention, or law:

(1) Criminal justice response to domestic violence, including court-mandated abuser treatment.

(2) Improving the response of Child Protective Service agencies to battered mothers of abused children.

(3) Child custody issues in domestic violence cases.

(4) The use of the self-defense plea by domestic violence victims.

(5) Improving interdisciplinary health care responses and access to health care resources for victims of domestic violence.

(6) Improving access to and the quality of legal representation for victims of domestic violence in civil litigation, including the issuance and enforcement of protection orders.

(7) Providing technical assistance and training to State domestic violence coalitions.

(d) ELIGIBILITY.—To be eligible to receive a grant under this section an entity shall be a private nonprofit organization that—

(1) focuses primarily on domestic violence;

(2) provides documentation to the Secretary demonstrating experience working directly on issues of domestic violence, particularly in the specific subject area for which it is applying;

(3) include on its advisory boards representatives from domestic violence programs in the region who are geographically and culturally diverse; and

(4) demonstrate the strong support of domestic violence advocates from across the country and the region for their designation as the national or a special issue resource center.

(e) REPORTING.—Not later than 6 months after receiving a grant under this section, a grantee shall prepare and submit a report to the Secretary that evaluates the effectiveness of the use of amounts received under such grant by such grantee and containing such additional information as the Secretary may prescribe.

(f) DEFINITION.—For purposes of this section, the term “Indian tribal agency” means an Indian tribe or tribal organization, as defined in section 4 of the Indian Self-Determination and Education Assistance Act.

(g) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. Not later than 120 days after such date of enactment, the Secretary shall publish final regulations.

(42 U.S.C. 10407)

DEFINITIONS

SEC. 309. As used in this title:

(1) The term “family violence” means any act or threatened act of violence, including any forceful detention of an individual, which—

(A) results or threatens to result in physical injury; and

(B) is committed by a person against another individual (including an elderly person) to whom such person is or was related by blood or marriage or otherwise legally

related or with whom such person is or was lawfully residing.

(2) The terms “Indian tribe” and “tribal organization” have the same meanings given such terms in subsections (b) and (c), respectively, of section 4 of the Indian Self-Determination and Education Assistance Act.

(3) The terms “Secretary” means the Secretary of Health and Human Services.

(4) The terms “shelter” means the provision of temporary refuge and related assistance in compliance with applicable State law and regulation governing the provision, on a regular basis, of shelter, safe homes, meals, and related assistance to victims of family violence and their dependents.

(5) The term “related assistance” means the provision of direct assistance to victims of family violence and their dependents for the purpose of preventing further violence, helping such victims to gain access to civil and criminal courts and other community services, facilitating the efforts of such victims to make decisions concerning their lives in the interest of safety, and assisting such victims in healing from the effects of the violence. Related assistance shall include—

(A) prevention services such as outreach and prevention services for victims and their children, employment training, parenting and other educational services for victims and their children, preventive health services within domestic violence programs (including nutrition, disease prevention, exercise, and prevention of substance abuse), domestic violence prevention programs for school age children, family violence public awareness campaigns, and violence prevention counseling services to abusers;

(B) counseling with respect to family violence, counseling or other supportive services by peers individually or in groups, and referral to community social services;

(C) transportation, technical assistance with respect to obtaining financial assistance under Federal and State programs, and referrals for appropriate health-care services (including alcohol and drug abuse treatment), but shall not include reimbursement for any health-care services;

(D) legal advocacy to provide victims with information and assistance through the civil and criminal courts, and legal assistance; or

(E) children’s counseling and support services, and child care services for children who are victims of family violence or the dependents of such victims.

(6) The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, except as otherwise provided, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated to carry out this title \$175,000,000 for each of fiscal years 2001 through 2005.

(b) **SECTION 303 (a) AND (b).**—Of the amounts appropriated under subsection (a) for each fiscal year, not less than 70 percent shall be used for making grants under subsection 303(a), and not less than 10 percent shall be used for the purpose of carrying out section 303(b).

(c) **SECTION 308.**—Of the amounts appropriated under subsection (a) for each fiscal year, 5 percent shall be used by the Secretary for making grants under section 308.

(d) **GRANTS FOR STATE COALITIONS.**—Of the amounts appropriated under subsection (a) for each fiscal year, not less than 10 percent of such amounts shall be used by the Secretary for making grants under section 311.

(e) **NON-SUPPLANTING REQUIREMENT.**—Federal funds made available to a State under this title shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide services and activities that promote the purposes of this title.

(42 U.S.C. 10409)

SEC. 311. GRANTS FOR STATE DOMESTIC VIOLENCE COALITIONS.

(a) **IN GENERAL.**—The Secretary shall award grants for the funding of State domestic violence coalitions. Such coalitions shall further the purposes of domestic violence intervention and prevention through activities, including—

(1) working with local domestic violence programs and providers of direct services to encourage appropriate responses to domestic violence within the State, including—

(A) training and technical assistance for local programs and professionals working with victims of domestic violence;

(B) planning and conducting State needs assessments and planning for comprehensive services;

(C) serving as an information clearinghouse and resource center for the State; and

(D) collaborating with other governmental systems which affect battered women;

(2) working with judicial and law enforcement agencies to encourage appropriate responses to domestic violence cases and examine issues including—

(A) the inappropriateness of mutual protection orders;

(B) the prohibition of mediation when domestic violence is involved;

(C) the use of mandatory arrests of accused offenders;

(D) the discouragement of dual arrests;

(E) the adoption of aggressive and vertical prosecution policies and procedures;

(F) the use of mandatory requirements for presentence investigations;

(G) the length of time taken to prosecute cases or reach plea agreements;

(H) the use of plea agreements;

- (I) the consistency of sentencing, including comparisons of domestic violence crimes with other violent crimes;
 - (J) the restitution of victims;
 - (K) the use of training and technical assistance to law enforcement, judges, court officers and other criminal justice professionals;¹
 - (L) the reporting practices of, and significance to be accorded to, prior convictions (both felony and misdemeanor) and protection orders;
 - (M) the use of interstate extradition in cases of domestic violence crimes;
 - (N) the use of statewide and regional planning; and
 - (O) any other matters as the Secretary and the State domestic violence coalitions believe merit investigations;
- (3) work with family law judges,² criminal court judges, Child Protective Services agencies, and children's advocates to develop appropriate responses to child custody and visitation issues in domestic violence cases as well as cases where domestic violence and child abuse are both present, including—
- (A) the inappropriateness of mutual protection orders;
 - (B) the prohibition of mediation where domestic violence is involved;
 - (C) the inappropriate use of marital or conjoint counseling in domestic violence cases;
 - (D) the use of training and technical assistance for family law judges³ and court personnel;
 - (E) the presumption of custody to domestic violence victims;
 - (F) the use of comprehensive protection orders to grant fullest protections possible to victims of domestic violence, including temporary custody support and maintenance;
 - (G) the development by Child Protective Service of supportive responses that enable victims to protect their children;
 - (H) the implementation of supervised visitations that do not endanger victims and their children;⁴ and
 - (I) the possibility of permitting domestic violence victims to remove children from the State when the safety of the children or the victim is at risk;
- (4) conduct public education campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence, including information aimed at

¹So in law. See paragraph (3) of section 40272(c) of Public Law 103-322.

²So in law. See paragraph (4)(A) of such section 40272(c).

³Paragraph (4)(A) of such section 40272(c) provides that paragraph (3) is amended by inserting "criminal court judges," after "family law judges," each place it appears. The amendment cannot be executed in subparagraph (D) because the term "judges," does not appear. (Compare "judges," and "judges".)

⁴Paragraph (4)(C) of such section 40272(c) provides that subparagraph (H) is amended by striking "supervised visitations that do not endanger victims and their children," and inserting "supervised visitations or denial of visitation to protect against danger to victims or their children". The amendment cannot be executed because the term to be struck does not appear. (Compare "children," and "children;".)

underserved racial, ethnic or language-minority populations; and

(5) participate in planning and monitoring of the distribution of grants and grant funds to their State under section 303(a).

(b) ELIGIBILITY.—To be eligible for a grant under this section, an entity shall be a statewide nonprofit State domestic violence coalition meeting the following conditions:

(1) The membership of the coalition includes representatives from a majority of the programs for victims of domestic violence in the State.

(2) The board membership of the coalition is representative of such programs.

(3) The purpose of the coalition is to provide services, community education, and technical assistance to such programs to establish and maintain shelter and related services for victims of domestic violence and their children.

(4) In the application submitted by the coalition for the grant, the coalition provides assurances satisfactory to the Secretary that the coalition—

(A) has actively sought and encouraged the participation of law enforcement agencies and other legal or judicial entities in the preparation of the application; and

(B) will actively seek and encourage the participation of such entities in the activities carried out with the grant.

(c) ALLOTMENT OF FUNDS.—From amounts appropriated under this section for each fiscal year, the Secretary shall allot to each State, the District of Columbia, the Commonwealth of Puerto Rico, and the combined U.S. Territories an amount equal to $\frac{1}{53}$ of the amount appropriated for such fiscal year. For purposes of this section, the term “combined U.S. Territories” means Guam, American Samoa, the U.S. Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands and shall not receive less than 1.5 percent of the funds appropriated for each fiscal year.

(d) PROHIBITION ON LOBBYING.—No funds made available to entities under this section shall be used, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State or local agency, or to undertake to influence the passage or defeat of any legislation by Congress, or by any State or local legislative body, or State proposals by initiative petition, except that the representatives of the entity may testify or make other appropriate communication—

(1) when formally requested to do so by a legislative body, a committee, or a member thereof; or

(2) in connection with legislation or appropriations directly affecting the activities of the entity.

(e) REPORTING.—Each State domestic violence coalition receiving amounts under this section shall submit a report to the Secretary describing the coordination, training and technical assistance and public education services performed with such amounts and evaluating the effectiveness of those services.

(f) DEFINITION.—For purposes of this section, a State domestic violence coalition may include representatives of Indian tribes and tribal organizations, as defined in section 4 of the Indian Self-Determination and Education Assistance Act.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to be used to award grants under this section \$8,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

(h) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. Not later than 120 days after such date of enactment, the Secretary shall publish final regulations implementing this section.

(42 U.S.C. 10410)

ADMINISTRATION AND STATUTORY CONSTRUCTION

SEC. 312. (a) In order to carry out the provisions of this title, the Secretary is authorized to—

(1) appoint and fix the compensation of such personnel as are necessary;

(2) procure, to the extent authorized by section 3109 of title 5, United States Code, such temporary and intermittent services of experts and consultants as are necessary;

(3) make grants to public and nonprofit private entities or enter into contracts with public or private entities; and

(4) prescribe such regulations as are reasonably necessary in order to carry out the purposes and provisions of this title. Not later than 90 days after the date of enactment of this sentence, the Secretary shall publish proposed regulations implementing sections 303, 308, and 314. Not later than 120 days after such date of enactment, the Secretary shall publish final regulations implementing such sections.

(b) Nothing in this title shall be construed to supersede the application of State or local requirements for the reporting of incidents of suspected child abuse to the appropriate State authorities.

(42 U.S.C. 10412)

FAMILY MEMBER ABUSE INFORMATION AND DOCUMENTATION PROJECT

SEC. 313. The Secretary shall, directly or by grant or contract—

(1) develop data on the individual develop data¹ on the number of victims of family violence and their dependents who are homeless or institutionalized as a result of the violence and abuse they have experienced;

(2) provide for the objective documentation of data on the victims of family violence and their dependents based on injuries that are brought to the attention of domestic violence shelter, hospital, social service, or law enforcement personnel, whether or not formal civil or criminal action is taken; and

(3) provide assurances that procedures will be developed to guarantee the confidentiality of records pertaining to any individual for whom data are compiled through this subsection.

(42 U.S.C. 10413)

¹The language “develop data on the individual develop data” appears in the law. See section 319 of Public Law 102–295.

SEC. 314. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

(a) **IN GENERAL.**—The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

(b) **APPLICATION.**—No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

(c) **REQUIREMENTS.**—An application submitted under subsection (b) shall—

(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register, including a description of how the proposed public information campaign will target the population at risk, including pregnant women;

(2) include a complete description of the plan of the application for the development of a public information campaign;

(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

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

(d) **USE.**—A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

(e) **CRITERIA.**—The criteria for awarding grants shall ensure that an applicant—

(1) will conduct activities that educate communities and groups at greatest risk;

(2) has a record of high quality campaigns of a comparable type; and

(3) has a record of high quality campaigns that educate the population groups identified as most at risk.

(f) For purposes of this section, the term “public or private non-profit entity” includes an “Indian tribe” or “tribal organization”, as defined in section 4 of the Indian Self-Determination and Education Assistance Act.

(42 U.S.C. 10414)

SEC. 315. MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

(a) **IN GENERAL.**—The Secretary, in cooperation with the Attorney General, shall award grants to not more than 10 States to assist such States in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

(1) increase the number of prosecutions for domestic violence crimes;

(2) encourage the reporting of incidences of domestic violence; and

(3) facilitate “arrests and aggressive” prosecution policies.

(b) **DESIGNATION AS MODEL STATE.**—To be designated as a model State under subsection (a), a State shall have in effect—

(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

(2) a law or policy that discourages “dual” arrests;

(3) statewide prosecution policies that—

(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and¹

(B) implement model projects that include either—

(i) a “no-drop” prosecution policy; or

(ii) a vertical prosecution policy; and

(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

(4) statewide guidelines for judges that—

(A) reduce the automatic issuance of mutual restraining or protective orders in cases where only one spouse has sought a restraining or protective order;

(B) discourage custody or joint custody orders by spouse abusers; and

(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute; and

(5) develop and disseminate methods to improve the criminal justice system’s response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—

¹So in law. See section 321 of Public Law 102–295. The word “and” probably should not appear.

(1) IN GENERAL.—In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section \$25,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

(2) LIMITATION.—A grant may not be made under this section in an amount less than \$2,000,000.

(3) DELEGATION AND TRANSFER.—The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section.

(42 U.S.C. 10415)

SEC. 316. NATIONAL DOMESTIC VIOLENCE HOTLINE GRANT.

(a) IN GENERAL.—The Secretary may award a grant to a private, nonprofit entity to provide for the operation of a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence.

(b) DURATION.—A grant under this section may extend over a period of not more than 5 years.

(c) ANNUAL APPROVAL.—The provision of payments under a grant under this section shall be subject to annual approval by the Secretary and subject to the availability of appropriations for each fiscal year to make the payments.

(d) ACTIVITIES.—Funds received by an entity under this section shall be used to establish and operate a national, toll-free telephone hotline to provide information and assistance to victims of domestic violence. In establishing and operating the hotline, a private, nonprofit entity shall—

(1) contract with a carrier for the use of a toll-free telephone line;

(2) employ, train, and supervise personnel to answer incoming calls and provide counseling and referral services to callers on a 24-hour-a-day basis;

(3) assemble and maintain a current database of information relating to services for victims of domestic violence to which callers may be referred throughout the United States, including information on the availability of shelters that serve battered women; and

(4) publicize the hotline to potential users throughout the United States.

(e) APPLICATION.—A grant may not be made under this section unless an application for such grant has been approved by the Secretary. To be approved by the Secretary under this subsection an application shall—

(1) contain such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register;

(2) include a complete description of the applicant's plan for the operation of a national domestic violence hotline, including descriptions of—

(A) the training program for hotline personnel;

(B) the hiring criteria for hotline personnel;

(C) the methods for the creation, maintenance and updating of a resource database;

(D) a plan for publicizing the availability of the hotline;

(E) a plan for providing service to non-English speaking callers, including hotline personnel who speak Spanish; and

(F) a plan for facilitating access to the hotline by persons with hearing impairments;

(3) demonstrate that the applicant has nationally recognized expertise in the area of domestic violence and a record of high quality service to victims of domestic violence, including a demonstration of support from advocacy groups, such as domestic violence State coalitions or recognized national domestic violence groups;

(4) demonstrates that the applicant has a commitment to diversity, and to the provision of services to ethnic, racial, and non-English speaking minorities, in addition to older individuals and individuals with disabilities; and

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

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section \$2,000,000 for each of fiscal years 2001 through 2005.

(2) AVAILABILITY.—Funds authorized to be appropriated under paragraph (1) shall remain available until expended.

(42 U.S.C. 10416)

SEC. 317. YOUTH EDUCATION AND DOMESTIC VIOLENCE.

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary may, in consultation with the Secretary of Education, select, implement and evaluate 4 model programs for education of young people about domestic violence and violence among intimate partners.

(b) NATURE OF PROGRAM.—The Secretary shall select, implement and evaluate separate model programs for 4 different audiences: primary schools, middle schools, secondary schools, and institutions of higher education. The model programs shall be selected, implemented, and evaluated in consultation with educational experts, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters, State coalitions and resource centers.

(c) REVIEW AND DISSEMINATION.—Not later than 2 years after the date of enactment of this section, the Secretary shall transmit the design and evaluation of the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$400,000 for fiscal year 1996.

(42 U.S.C. 10417)

SEC. 318. DEMONSTRATION GRANTS FOR COMMUNITY INITIATIVES.

(a) IN GENERAL.—The Secretary shall provide grants to non-profit private organizations to establish projects in local commu-

nities involving many sectors of each community to coordinate intervention and prevention of domestic violence.

(b) ELIGIBILITY.—To be eligible for a grant under this section, an entity—

(1) shall be a nonprofit organization organized for the purpose of coordinating community projects for the intervention in and prevention of domestic violence; and

(2) shall include representatives of pertinent sectors of the local community, which may include—

(A) health care providers;

(B) the education community;

(C) the religious community;

(D) the justice system;

(E) domestic violence program advocates;

(F) human service entities such as State child services divisions;

(G) business and civic leaders; and

(H) other pertinent sectors.

(c) APPLICATIONS.—An organization that desires to receive a grant under this section shall submit to the Secretary an application, in such form and in such manner as the Secretary shall prescribe through notice in the Federal Register, that—

(1) demonstrates that the applicant will serve a community leadership function, bringing together opinion leaders from each sector of the community to develop a coordinated community consensus opposing domestic violence;

(2) demonstrates a community action component to improve and expand current intervention and prevention strategies through increased communication and coordination among all affected sectors;

(3) includes a complete description of the applicant's plan for the establishment and operation of the community project, including a description of—

(A) the method for identification and selection of an administrative committee made up of persons knowledgeable in domestic violence to oversee the project, hire staff, assure compliance with the project outline, and secure annual evaluation of the project;

(B) the method for identification and selection of project staff and a project evaluator;

(C) the method for identification and selection of a project council consisting of representatives of the community sectors listed in subsection (b)(2);

(D) the method for identification and selection of a steering committee consisting of representatives of the various community sectors who will chair subcommittees of the project council focusing on each of the sectors; and

(E) a plan for developing outreach and public education campaigns regarding domestic violence; and

(4) contains such other information, agreements, and assurances as the Secretary may require.

(d) TERM.—A grant provided under this section may extend over a period of not more than 3 fiscal years.

(e) CONDITIONS ON PAYMENT.—Payments under a grant under this section shall be subject to—

- (1) annual approval by the Secretary; and
- (2) availability of appropriations.
- (f) **GEOGRAPHICAL DISPERSION.**—The Secretary shall award grants under this section to organizations in communities geographically dispersed throughout the country.
- (g) **USE OF GRANT MONIES.**—
 - (1) **IN GENERAL.**—A grant made under subsection (a) shall be used to establish and operate a community project to coordinate intervention and prevention of domestic violence.
 - (2) **REQUIREMENTS.**—In establishing and operating a project, a nonprofit private organization shall—
 - (A) establish protocols to improve and expand domestic violence intervention and prevention strategies among all affected sectors;
 - (B) develop action plans to direct responses within each community sector that are in conjunction with development in all other sectors; and
 - (C) provide for periodic evaluation of the project with a written report and analysis to assist application of this concept in other communities.
- (h) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$6,000,000 for each of fiscal years 2001 through 2005.
- (i) **REGULATIONS.**—Not later than 60 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. Not later than 120 days after the date of enactment, the Secretary shall publish final regulations implementing this section.

(42 U.S.C. 10418)

SEC. 319. TRANSITIONAL HOUSING ASSISTANCE.

- (a) **IN GENERAL.**—The Secretary shall award grants under this section to carry out programs to provide assistance to individuals, and their dependents—
 - (1) who are homeless or in need of transitional housing or other housing assistance, as a result of fleeing a situation of domestic violence; and
 - (2) for whom emergency shelter services are unavailable or insufficient.
- (b) **ASSISTANCE DESCRIBED.**—Assistance provided under this section may include—
 - (1) short-term housing assistance, including rental or utilities payments assistance and assistance with related expenses, such as payment of security deposits and other costs incidental to relocation to transitional housing, in cases in which assistance described in this paragraph is necessary to prevent homelessness because an individual or dependent is fleeing a situation of domestic violence; and
 - (2) support services designed to enable an individual or dependent who is fleeing a situation of domestic violence to locate and secure permanent housing, and to integrate the individual or dependent into a community, such as transportation, counseling, child care services, case management, employment counseling, and other assistance.
- (c) **TERM OF ASSISTANCE.**—

(1) IN GENERAL.—Subject to paragraph (2), an individual or dependent assisted under this section may not receive assistance under this section for a total of more than 12 months.

(2) WAIVER.—The recipient of a grant under this section may waive the restrictions of paragraph (1) for up to an additional 6-month period with respect to any individual (and dependents of the individual) who has made a good-faith effort to acquire permanent housing and has been unable to acquire the housing.

(d) REPORTS.—

(1) REPORT TO SECRETARY.—

(A) IN GENERAL.—An entity that receives a grant under this section shall annually prepare and submit to the Secretary a report describing the number of individuals and dependents assisted, and the types of housing assistance and support services provided, under this section.

(B) CONTENTS.—Each report shall include information on—

(i) the purpose and amount of housing assistance provided to each individual or dependent assisted under this section;

(ii) the number of months each individual or dependent received the assistance;

(iii) the number of individuals and dependents who were eligible to receive the assistance, and to whom the entity could not provide the assistance solely due to a lack of available housing; and

(iv) the type of support services provided to each individual or dependent assisted under this section.

(2) REPORT TO CONGRESS.—The Secretary shall annually prepare and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report that contains a compilation of the information contained in reports submitted under paragraph (1).

(e) EVALUATION, MONITORING, AND ADMINISTRATION.—Of the amount appropriated under subsection (f) for each fiscal year, not more than 1 percent shall be used by the Secretary for evaluation, monitoring, and administrative costs under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$25,000,000 for fiscal year 2001.

(42 U.S.C. 10419)

**NATIONAL COMMISSION TO PREVENT INFANT
MORTALITY ACT OF 1986¹**

**TITLE II—NATIONAL COMMISSION TO
PREVENT INFANT MORTALITY**

SEC. 201. SHORT TITLE.

This title may be cited as the “National Commission to Prevent Infant Mortality Act of 1986”.

(42 U.S.C. 285g note)

SEC. 202. DEFINITION.

For the purposes of this title, the term “infant mortality” refers to the number of infants born alive but who die before their first birthday.

(42 U.S.C. 285g note)

SEC. 203. ESTABLISHMENT OF A NATIONAL COMMISSION.

(a) ESTABLISHMENT.—There is established the National Commission to Prevent Infant Mortality (hereinafter referred to as the “Commission”).

(b) COMPOSITION.—The Commission shall be composed of fifteen members, as follows:

(1) Two members of the Senate, one to be selected by the majority leader of the Senate, the other to be selected by the minority leader of the Senate.

(2) Two members of the House, one to be selected by the Speaker of the House, the other to be selected by the minority leader of the House.

(3) Three representatives of State government shall be jointly selected by the majority leader of the Senate and the Speaker of the House. One shall be a Governor; one shall be a chief State official responsible for administering the State medicaid program; and one shall be the chief State official responsible for administering the State maternal and child health programs.

(4) The Secretary of Health and Human Services shall be a member.

(5) The Comptroller General of the United States shall be a member.

(6) Six at large members, with demonstrated expertise in maternal and child health, including representatives of health care consumer and provider organizations, shall be jointly selected by the majority leader of the Senate and the Speaker of the House.

¹Title II of Public Law 99-660.

(c) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairperson and Vice Chairperson from among its members.

(d) QUORUM.—Eight members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(e) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(f) VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(42 U.S.C. 285g note)

SEC. 204. DUTIES OF THE COMMISSION.

(a) DUTIES.—The Commission shall:

(1) Identify and examine comprehensively Federal, State, local, and private resources which impact infant mortality, including but not limited to—

(A) the effectiveness and adequacy of programs such as the Supplemental Feeding Program for Women, Infants, and Children; the Maternal and Child Health Block Grant; Community Health Centers; prepregnancy services and other programs that increase access to prenatal and post-natal education, care, and nutrition;

(B) the effectiveness of current Federal and State policies under the Medicaid Program to ensure adequate access to prenatal and post-natal care for low-income pregnant women, mothers, and infants up to age one;

(C) the role of income maintenance and other programs that impact infant mortality such as Aid to Families with Dependent Children and Federal housing subsidies;

(D) the adequacy of current Federal and State efforts to enable an appropriate distribution of properly trained health care professionals to provide comprehensive maternal and child health services;

(E) the adequacy of private health care financing systems and mechanisms to enable pregnant women and infants to receive comprehensive health care; and

(F) the adequacy of the national biostatistics registration system with respect to the collection and reporting of infant health statistics.

(2) Identify current financial, intergovernmental, and within the Federal Government, interagency barriers to the health care needed to prevent high infant mortality.

(3) Review recommendations made in recent regional and national reports that promote the health status of childbearing women and their infants and carry forward such recommendations as deemed appropriate.

(4) Hold hearings, in accordance with section 205(a), in areas of the United States with high infant mortality rates.

(b) RECOMMENDATIONS.—The Commission shall—

(1) recommend a national policy designed to reduce and prevent infant mortality, including recommendations concerning populations at risk of high infant death rates and recommendations concerning appropriate roles for the Federal Government, States, local governments, and private sector;

(2) recommend to the Congress and the President the specific changes needed within Federal laws and Federal programs to achieve an effective Federal role in preventing infant mortality, including the programs specified in subparagraphs (A) and (B) of subsection (a)(1);

(3) recommend to the Congress and the President the specific changes needed to improve the national vital statistics registration system with respect to infant death statistics; and

(4) present such recommendations to the President, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Finance and Governmental Affairs of the Senate no later than one year after enactment of this Act.

(42 U.S.C. 285g note)

SEC. 205. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission, or at its direction, any subcommittee or member thereof, may for the purpose of carrying out the provisions of this title, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence and administer such oaths, as the Commission or such subcommittee or member may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission, subcommittee, or member thereof.

(b) INFORMATION.—The Commission may secure directly from any Federal department or agency such information as may be necessary to enable the Commission to carry out this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) CONTRACTS.—To carry out this title, the Commission may enter into such contracts and other arrangements to such extent or in such amounts as are provided in appropriation Acts, and without regard to the provisions of section 3709 of the Revised Statutes (41 U.S.C. 5). Contracts and other arrangements may be entered into under this subsection with or without consideration or bond.

(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act shall not apply to the Commission.

(42 U.S.C. 285g note)

SEC. 206. COMMISSION STAFF.

(a) EXECUTIVE DIRECTOR.—The Chairperson and Vice Chairperson of the Commission shall appoint an executive director. The employment of such executive director shall be subject to confirmation by the Commission.

(b) OTHER PERSONNEL.—The Commission may appoint and terminate the executive director selected under subsection (a) and such other personnel as it considers appropriate to assist in the performance of its duties under this title, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay such executive director and other personnel without regard to the provisions of chapter 51 and subchapter 111 of chapter 53 of such title relating to classification and General Schedule pay rates, except that the rate of pay for such executive director and other personnel may not exceed the

rate payable for GS-18 of the General Schedule under section 5332 of such title.

(c) **APPLICABILITY OF OTHER FEDERAL LAWS.**—Service of an individual as a member of the Commission or employment of an individual by the Commission on a part-time or full-time basis and with or without compensation shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Commission or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(d) **EXPERTS AND CONSULTANTS.**—Subject to such rules as may be prescribed by the Commission, the Chairman of the Commission may procure temporary and intermittent services under section 3109 of title 5, United States Code, at rates for individuals not to exceed the daily rate payable for GS-18 of the General Schedule under section 5332 of such title.

(42 U.S.C. 285g note)

SEC. 207. SUNSHINE PROVISION.

The Commission shall establish procedures to ensure its proceedings are open to the public to the maximum extent practicable.

(42 U.S.C. 285g note)

SEC. 208. TERMINATION OF THE COMMISSION.

Ninety days after the Commission submits its recommendations as required by section 204(b)(4) the Commission shall terminate.

(42 U.S.C. 285g note)

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission such sums as may be necessary. Amounts appropriated under this section shall remain available until the day on which the Commission terminates under section 208.

(42 U.S.C. 285g note)

PART II—PROGRAMS FOR INDIVIDUALS WITH DISABILITIES

AMERICANS WITH DISABILITIES ACT OF 1990¹

AN ACT To establish a clear and comprehensive prohibition of discrimination on the basis of disability.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. [42 U.S.C. 12101] SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Americans with Disabilities Act of 1990”.

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

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

TITLE I—EMPLOYMENT

- Sec. 101. Definitions.
- Sec. 102. Discrimination.
- Sec. 103. Defenses.
- Sec. 104. Illegal use of drugs and alcohol.
- Sec. 105. Posting notices.
- Sec. 106. Regulations.
- Sec. 107. Enforcement.
- Sec. 108. Effective date.

TITLE II—PUBLIC SERVICES

SUBTITLE A—PROHIBITION AGAINST DISCRIMINATION AND OTHER GENERALLY APPLICABLE PROVISIONS

- Sec. 201. Definition.
- Sec. 202. Discrimination.
- Sec. 203. Enforcement.
- Sec. 204. Regulations.
- Sec. 205. Effective date.

SUBTITLE B—ACTIONS APPLICABLE TO PUBLIC TRANSPORTATION PROVIDED BY PUBLIC ENTITIES CONSIDERED DISCRIMINATORY

PART I—PUBLIC TRANSPORTATION OTHER THAN BY AIRCRAFT OR CERTAIN RAIL OPERATIONS

- Sec. 221. Definitions.
- Sec. 222. Public entities operating fixed route systems.
- Sec. 223. Paratransit as a complement to fixed route service.
- Sec. 224. Public entity operating a demand responsive system.
- Sec. 225. Temporary relief where lifts are unavailable.
- Sec. 226. New facilities.
- Sec. 227. Alterations of existing facilities.

¹Section 102(a) of Public Law 104–1 (109 Stat. 5) provides in part as follows: “The following laws shall apply, as prescribed by this Act, to the legislative branch of the Federal Government.”. Such section includes the Americans with Disabilities Act of 1990 as one of the relevant laws. See paragraph (3) of section 102(a).

- Sec. 228. Public transportation programs and activities in existing facilities and one car per train rule.
Sec. 229. Regulations.
Sec. 230. Interim accessibility requirements.
Sec. 231. Effective date.

PART II—PUBLIC TRANSPORTATION BY INTERCITY AND COMMUTER RAIL

- Sec. 241. Definitions.
Sec. 242. Intercity and commuter rail actions considered discriminatory.
Sec. 243. Conformance of accessibility standards.
Sec. 244. Regulations.
Sec. 245. Interim accessibility requirements.
Sec. 246. Effective date.

TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES

- Sec. 301. Definitions.
Sec. 302. Prohibition of discrimination by public accommodations.
Sec. 303. New construction and alterations in public accommodations and commercial facilities.
Sec. 304. Prohibition of discrimination in specified public transportation services provided by private entities.
Sec. 305. Study.
Sec. 306. Regulations.
Sec. 307. Exemptions for private clubs and religious organizations.
Sec. 308. Enforcement.
Sec. 309. Examinations and courses.
Sec. 310. Effective date.

TITLE IV—TELECOMMUNICATIONS

- Sec. 401. Telecommunications relay services for hearing-impaired and speech-impaired individuals.
Sec. 402. Closed-captioning of public service announcements.

TITLE V—MISCELLANEOUS PROVISIONS

- Sec. 501. Construction.
Sec. 502. State immunity.
Sec. 503. Prohibition against retaliation and coercion.
Sec. 504. Regulations by the Architectural and Transportation Barriers Compliance Board.
Sec. 505. Attorney's fees.
Sec. 506. Technical assistance.
Sec. 507. Federal wilderness areas.
Sec. 508. Transvestites.
Sec. 509. Coverage of Congress and the agencies of the legislative branch.
Sec. 510. Illegal use of drugs.
Sec. 511. Definitions.
Sec. 512. Amendments to the Rehabilitation Act.
Sec. 513. Alternative means of dispute resolution.
Sec. 514. Severability.

SEC. 2. [42 U.S.C. 12101] FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) some 43,000,000 Americans have one or more physical or mental disabilities, and this number is increasing as the population as a whole is growing older;

(2) historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem;

(3) discrimination against individuals with disabilities persists in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and access to public services;

(4) unlike individuals who have experienced discrimination on the basis of race, color, sex, national origin, religion, or age, individuals who have experienced discrimination on the basis of disability have often had no legal recourse to redress such discrimination;

(5) individuals with disabilities continually encounter various forms of discrimination, including outright intentional exclusion, the discriminatory effects of architectural, transportation, and communication barriers, overprotective rules and policies, failure to make modifications to existing facilities and practices, exclusionary qualification standards and criteria, segregation, and relegation to lesser services, programs, activities, benefits, jobs, or other opportunities;

(6) census data, national polls, and other studies have documented that people with disabilities, as a group, occupy an inferior status in our society, and are severely disadvantaged socially, vocationally, economically, and educationally;

(7) individuals with disabilities are a discrete and insular minority who have been faced with restrictions and limitations, subjected to a history of purposeful unequal treatment, and relegated to a position of political powerlessness in our society, based on characteristics that are beyond the control of such individuals and resulting from stereotypic assumptions not truly indicative of the individual ability of such individuals to participate in, and contribute to, society;

(8) the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals; and

(9) the continuing existence of unfair and unnecessary discrimination and prejudice denies people with disabilities the opportunity to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous, and costs the United States billions of dollars in unnecessary expenses resulting from dependency and nonproductivity.

(b) PURPOSE.—It is the purpose of this Act—

(1) to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

(2) to provide clear, strong, consistent, enforceable standards addressing discrimination against individuals with disabilities;

(3) to ensure that the Federal Government plays a central role in enforcing the standards established in this Act on behalf of individuals with disabilities; and

(4) to invoke the sweep of congressional authority, including the power to enforce the fourteenth amendment and to regulate commerce, in order to address the major areas of discrimination faced day-to-day by people with disabilities.

SEC. 3. [42 U.S.C. 12102] DEFINITIONS.

As used in this Act:

(1) AUXILIARY AIDS AND SERVICES.—The term “auxiliary aids and services” includes—

- (A) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments;
- (B) qualified readers, taped texts, or other effective methods of making visually delivered materials available to individuals with visual impairments;
- (C) acquisition or modification of equipment or devices;
- and
- (D) other similar services and actions.
- (2) **DISABILITY.**—The term “disability” means, with respect to an individual—
- (A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- (B) a record of such an impairment; or
- (C) being regarded as having such an impairment.
- (3) **STATE.**—The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

TITLE I—EMPLOYMENT¹

SEC. 101. [42 U.S.C. 12111] DEFINITIONS.

As used in this title:

- (1) **COMMISSION.**—The term “Commission” means the Equal Employment Opportunity Commission established by section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4).
- (2) **COVERED ENTITY.**—The term “covered entity” means an employer, employment agency, labor organization, or joint labor-management committee.
- (3) **DIRECT THREAT.**—The term “direct threat” means a significant risk to the health or safety of others that cannot be eliminated by reasonable accommodation.
- (4) **EMPLOYEE.**—The term “employee” means an individual employed by an employer. With respect to employment in a foreign country, such term includes an individual who is a citizen of the United States.
- (5) **EMPLOYER.**—
- (A) **IN GENERAL.**—The term “employer” means a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person, except that, for two years following the effective date of this title, an employer means a person engaged in an industry affecting commerce who has 25 or more employees for each working day in

¹With respect to the applicability of this title to the legislative branch of the Federal Government, see section 201 of Public Law 104–1 (109 Stat. 7). (See also footnote 1 on page 79.) Section 201(d) provides as follows: “This section shall take effect 1 year after the date of the enactment of this Act.” Such Public Law was enacted on January 23, 1995.

each of 20 or more calendar weeks in the current or preceding year, and any agent of such person.

(B) EXCEPTIONS.—The term “employer” does not include—

(i) the United States, a corporation wholly owned by the government of the United States, or an Indian tribe; or

(ii) a bona fide private membership club (other than a labor organization) that is exempt from taxation under section 501(c) of the Internal Revenue Code of 1986.

(6) ILLEGAL USE OF DRUGS.—

(A) IN GENERAL.—The term “illegal use of drugs” means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(B) DRUGS.—The term “drug” means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

(7) PERSON, ETC.—The terms “person”, “labor organization”, “employment agency”, “commerce”, and “industry affecting commerce”, shall have the same meaning given such terms in section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e).

(8) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term “qualified individual with a disability” means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. For the purposes of this title, consideration shall be given to the employer’s judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.

(9) REASONABLE ACCOMMODATION.—The term “reasonable accommodation” may include—

(A) making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and

(B) job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(10) UNDUE HARDSHIP.—

(A) IN GENERAL.—The term “undue hardship” means an action requiring significant difficulty or expense, when considered in light of the factors set forth in subparagraph (B).

(B) FACTORS TO BE CONSIDERED.—In determining whether an accommodation would impose an undue hardship on a covered entity, factors to be considered include—

(i) the nature and cost of the accommodation needed under this Act;

(ii) the overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility;

(iii) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(iv) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

SEC. 102. [42 U.S.C. 12112] DISCRIMINATION.

(a) GENERAL RULE.—No covered entity shall discriminate against a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

(b) CONSTRUCTION.—As used in subsection (a), the term “discriminate” includes—

(1) limiting, segregating, or classifying a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;

(2) participating in a contractual or other arrangement or relationship that has the effect of subjecting a covered entity’s qualified applicant or employee with a disability to the discrimination prohibited by this title (such relationship includes a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee of the covered entity, or an organization providing training and apprenticeship programs);

(3) utilizing standards, criteria, or methods of administration—

(A) that have the effect of discrimination on the basis of disability; or

(B) that perpetuate the discrimination of others who are subject to common administrative control;

(4) excluding or otherwise denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(5)(A) not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified

individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of such covered entity; or

(B) denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need of such covered entity to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

(6) using qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used by the covered entity, is shown to be job-related for the position in question and is consistent with business necessity; and

(7) failing to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual, or speaking skills, such test results accurately reflect the skills, aptitude, or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual, or speaking skills of such employee or applicant (except where such skills are the factors that the test purports to measure).

(c) COVERED ENTITIES IN FOREIGN COUNTRIES.—

(1) IN GENERAL.—It shall not be unlawful under this section for a covered entity to take any action that constitutes discrimination under this section with respect to an employee in a workplace in a foreign country if compliance with this section would cause such covered entity to violate the law of the foreign country in which such workplace is located.

(2) CONTROL OF CORPORATION.—

(A) PRESUMPTION.—If an employer controls a corporation whose place of incorporation is a foreign country, any practice that constitutes discrimination under this section and is engaged in by such corporation shall be presumed to be engaged in by such employer.

(B) EXCEPTION.—This section shall not apply with respect to the foreign operations of an employer that is a foreign person not controlled by an American employer.

(C) DETERMINATION.—For purposes of this paragraph, the determination of whether an employer controls a corporation shall be based on—

- (i) the interrelation of operations;
- (ii) the common management;
- (iii) the centralized control of labor relations; and
- (iv) the common ownership or financial control,

of the employer and the corporation.

(d) MEDICAL EXAMINATIONS AND INQUIRIES.—

(1) IN GENERAL.—The prohibition against discrimination as referred to in subsection (a) shall include medical examinations and inquiries.

(2) PREEMPLOYMENT.—

(A) PROHIBITED EXAMINATION OR INQUIRY.—Except as provided in paragraph (3), a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability.

(B) ACCEPTABLE INQUIRY.—A covered entity may make preemployment inquiries into the ability of an applicant to perform job-related functions.

(3) EMPLOYMENT ENTRANCE EXAMINATION.—A covered entity may require a medical examination after an offer of employment has been made to a job applicant and prior to the commencement of the employment duties of such applicant, and may condition an offer of employment on the results of such examination, if—

(A) all entering employees are subjected to such an examination regardless of disability;

(B) information obtained regarding the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record, except that—

(i) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations;

(ii) first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment; and

(iii) government officials investigating compliance with this Act shall be provided relevant information on request; and

(C) the results of such examination are used only in accordance with this title.

(4) EXAMINATION AND INQUIRY.—

(A) PROHIBITED EXAMINATIONS AND INQUIRIES.—A covered entity shall not require a medical examination and shall not make inquiries of an employee as to whether such employee is an individual with a disability or as to the nature or severity of the disability, unless such examination or inquiry is shown to be job-related and consistent with business necessity.

(B) ACCEPTABLE EXAMINATIONS AND INQUIRIES.—A covered entity may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that work site. A covered entity may make inquiries into the ability of an employee to perform job-related functions.

(C) REQUIREMENT.—Information obtained under subparagraph (B) regarding the medical condition or history of any employee are subject to the requirements of subparagraphs (B) and (C) of paragraph (3).

SEC. 103. [42 U.S.C. 12113] DEFENSES.

(a) IN GENERAL.—It may be a defense to a charge of discrimination under this Act that an alleged application of qualification standards, tests, or selection criteria that screen out or tend to

screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation, as required under this title.

(b) **QUALIFICATION STANDARDS.**—The term “qualification standards” may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace.

(c) **RELIGIOUS ENTITIES.**—

(1) **IN GENERAL.**—This title shall not prohibit a religious corporation, association, educational institution, or society from giving preference in employment to individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

(2) **RELIGIOUS TENETS REQUIREMENT.**—Under this title, a religious organization may require that all applicants and employees conform to the religious tenets of such organization.

(d) **LIST OF INFECTIOUS AND COMMUNICABLE DISEASES.**—

(1) **IN GENERAL.**—The Secretary of Health and Human Services, not later than 6 months after the date of enactment of this Act, shall—

(A) review all infectious and communicable diseases which may be transmitted through handling the food supply;

(B) publish a list of infectious and communicable diseases which are transmitted through handling the food supply;

(C) publish the methods by which such diseases are transmitted; and

(D) widely disseminate such information regarding the list of diseases and their modes of transmissibility to the general public.

Such list shall be updated annually.

(2) **APPLICATIONS.**—In any case in which an individual has an infectious or communicable disease that is transmitted to others through the handling of food, that is included on the list developed by the Secretary of Health and Human Services under paragraph (1), and which cannot be eliminated by reasonable accommodation, a covered entity may refuse to assign or continue to assign such individual to a job involving food handling.

(3) **CONSTRUCTION.**—Nothing in this Act shall be construed to preempt, modify, or amend any State, county, or local law, ordinance, or regulation applicable to food handling which is designed to protect the public health from individuals who pose a significant risk to the health or safety of others, which cannot be eliminated by reasonable accommodation, pursuant to the list of infectious or communicable diseases and the modes of transmissibility published by the Secretary of Health and Human Services.

SEC. 104. [42 U.S.C. 12114] ILLEGAL USE OF DRUGS AND ALCOHOL.

(a) **QUALIFIED INDIVIDUAL WITH A DISABILITY.**—For purposes of this title, the term “qualified individual with a disability” shall not

include any employee or applicant who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to exclude as a qualified individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs.

(c) AUTHORITY OF COVERED ENTITY.—A covered entity—

(1) may prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees;

(2) may require that employees shall not be under the influence of alcohol or be engaging in the illegal use of drugs at the workplace;

(3) may require that employees behave in conformance with the requirements established under the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.);

(4) may hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment or job performance and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee; and

(5) may, with respect to Federal regulations regarding alcohol and the illegal use of drugs, require that—

(A) employees comply with the standards established in such regulations of the Department of Defense, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Defense);

(B) employees comply with the standards established in such regulations of the Nuclear Regulatory Commission, if the employees of the covered entity are employed in an industry subject to such regulations, including complying with regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Nuclear Regulatory Commission); and

(C) employees comply with the standards established in such regulations of the Department of Transportation,

if the employees of the covered entity are employed in a transportation industry subject to such regulations, including complying with such regulations (if any) that apply to employment in sensitive positions in such an industry, in the case of employees of the covered entity who are employed in such positions (as defined in the regulations of the Department of Transportation).

(d) DRUG TESTING.—

(1) IN GENERAL.—For purposes of this title, a test to determine the illegal use of drugs shall not be considered a medical examination.

(2) CONSTRUCTION.—Nothing in this title shall be construed to encourage, prohibit, or authorize the conducting of drug testing for the illegal use of drugs by job applicants or employees or making employment decisions based on such test results.

(e) TRANSPORTATION EMPLOYEES.—Nothing in this title shall be construed to encourage, prohibit, restrict, or authorize the otherwise lawful exercise by entities subject to the jurisdiction of the Department of Transportation of authority to—

(1) test employees of such entities in, and applicants for, positions involving safety-sensitive duties for the illegal use of drugs and for on-duty impairment by alcohol; and

(2) remove such persons who test positive for illegal use of drugs and on-duty impairment by alcohol pursuant to paragraph (1) from safety-sensitive duties in implementing subsection (c).

SEC. 105. [42 U.S.C. 12115] POSTING NOTICES.

Every employer, employment agency, labor organization, or joint labor-management committee covered under this title shall post notices in an accessible format to applicants, employees, and members describing the applicable provisions of this Act, in the manner prescribed by section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-10).

SEC. 106. [42 U.S.C. 12116] REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Commission shall issue regulations in an accessible format to carry out this title in accordance with subchapter II of chapter 5 of title 5, United States Code.

SEC. 107. [42 U.S.C. 12117] ENFORCEMENT.

(a) POWERS, REMEDIES, AND PROCEDURES.—The powers, remedies, and procedures set forth in sections 705, 706, 707, 709, and 710 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-4, 2000e-5, 2000e-6, 2000e-8, and 2000e-9) shall be the powers, remedies, and procedures this title provides to the Commission, to the Attorney General, or to any person alleging discrimination on the basis of disability in violation of any provision of this Act, or regulations promulgated under section 106, concerning employment.

(b) COORDINATION.—The agencies with enforcement authority for actions which allege employment discrimination under this title and under the Rehabilitation Act of 1973 shall develop procedures to ensure that administrative complaints filed under this title and under the Rehabilitation Act of 1973 are dealt with in a manner that avoids duplication of effort and prevents imposition of incon-

sistent or conflicting standards for the same requirements under this title and the Rehabilitation Act of 1973. The Commission, the Attorney General, and the Office of Federal Contract Compliance Programs shall establish such coordinating mechanisms (similar to provisions contained in the joint regulations promulgated by the Commission and the Attorney General at part 42 of title 28 and part 1691 of title 29, Code of Federal Regulations, and the Memorandum of Understanding between the Commission and the Office of Federal Contract Compliance Programs dated January 16, 1981 (46 Fed. Reg. 7435, January 23, 1981)) in regulations implementing this title and Rehabilitation Act of 1973 not later than 18 months after the date of enactment of this Act.

SEC. 108. [42 U.S.C. 12111 nt] EFFECTIVE DATE.

This title shall become effective 24 months after the date of enactment.

TITLE II—PUBLIC SERVICES¹

Subtitle A—Prohibition Against Discrimination and Other Generally Applicable Provisions

SEC. 201. [42 U.S.C. 12131] DEFINITION.

As used in this title:

- (1) PUBLIC ENTITY.—The term “public entity” means—
 - (A) any State or local government;
 - (B) any department, agency, special purpose district, or other instrumentality of a State or States or local government; and
 - (C) the National Railroad Passenger Corporation, and any commuter authority (as defined in section 103(8) of the Rail Passenger Service Act).

- (2) QUALIFIED INDIVIDUAL WITH A DISABILITY.—The term “qualified individual with a disability” means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

¹With respect to the applicability of this title to the legislative branch of the Federal Government, see section 210 of Public Law 104-1 (109 Stat. 13). (See also footnote 1 on page 79.) Section 210(h) provides as follows:

“(h) EFFECTIVE DATE.—

“(1) IN GENERAL.—Subsections (b), (c), and (d) shall be effective on January 1, 1997.

“(2) GENERAL ACCOUNTING OFFICE, GOVERNMENT PRINTING OFFICE, AND LIBRARY OF CONGRESS.—Subsection (g) shall be effective 1 year after transmission to the Congress of the study under section 230.”

In such section 210, subsection (b) relates to the applicability of this title to certain entities; subsection (c) relates to a remedy; subsection (d) relates to procedures; subsection (e) relates to regulations; subsection (f) relates to periodic inspections and reports, and to an initial study; and subsection (g) relates to the General Accounting Office, the Government Printing Office, and the Library of Congress. (With respect to section 230, which is referred to in subsection (h)(2) of section 210, see 109 Stat. 23.)

SEC. 202. [42 U.S.C. 12132] DISCRIMINATION.

Subject to the provisions of this title, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

SEC. 203. [42 U.S.C. 12133] ENFORCEMENT.

The remedies, procedures, and rights set forth in section 505 of the Rehabilitation Act of 1973 (29 U.S.C. 794a) shall be the remedies, procedures, and rights this title provides to any person alleging discrimination on the basis of disability in violation of section 202.

SEC. 204. [42 U.S.C. 12134] REGULATIONS.

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Attorney General shall promulgate regulations in an accessible format that implement this subtitle. Such regulations shall not include any matter within the scope of the authority of the Secretary of Transportation under section 223, 229, or 244.

(b) **RELATIONSHIP TO OTHER REGULATIONS.**—Except for “program accessibility, existing facilities”, and “communications”, regulations under subsection (a) shall be consistent with this Act and with the coordination regulations under part 41 of title 28, Code of Federal Regulations (as promulgated by the Department of Health, Education, and Welfare on January 13, 1978), applicable to recipients of Federal financial assistance under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794). With respect to “program accessibility, existing facilities”, and “communications”, such regulations shall be consistent with regulations and analysis as in part 39 of title 28 of the Code of Federal Regulations, applicable to federally conducted activities under such section 504.

(c) **STANDARDS.**—Regulations under subsection (a) shall include standards applicable to facilities and vehicles covered by this subtitle, other than facilities, stations, rail passenger cars, and vehicles covered by subtitle B. Such standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504(a) of this Act.

SEC. 205. [42 U.S.C. 12131 nt] EFFECTIVE DATE.

(a) **GENERAL RULE.**—Except as provided in subsection (b), this subtitle shall become effective 18 months after the date of enactment of this Act.

(b) **EXCEPTION.**—Section 204 shall become effective on the date of enactment of this Act.

Subtitle B—Actions Applicable to Public Transportation Provided by Public Entities Considered Discriminatory

PART I—PUBLIC TRANSPORTATION OTHER THAN BY AIRCRAFT OR CERTAIN RAIL OPERATIONS

SEC. 221. [42 U.S.C. 12141] DEFINITIONS.

As used in this part:

(1) **DEMAND RESPONSIVE SYSTEM.**—The term “demand responsive system” means any system of providing designated public transportation which is not a fixed route system.

(2) **DESIGNATED PUBLIC TRANSPORTATION.**—The term “designated public transportation” means transportation (other than public school transportation) by bus, rail, or any other conveyance (other than transportation by aircraft or intercity or commuter rail transportation (as defined in section 241)) that provides the general public with general or special service (including charter service) on a regular and continuing basis.

(3) **FIXED ROUTE SYSTEM.**—The term “fixed route system” means a system of providing designated public transportation on which a vehicle is operated along a prescribed route according to a fixed schedule.

(4) **OPERATES.**—The term “operates”, as used with respect to a fixed route system or demand responsive system, includes operation of such system by a person under a contractual or other arrangement or relationship with a public entity.

(5) **PUBLIC SCHOOL TRANSPORTATION.**—The term “public school transportation” means transportation by schoolbus vehicles of schoolchildren, personnel, and equipment to and from a public elementary or secondary school and school-related activities.

(6) **SECRETARY.**—The term “Secretary” means the Secretary of Transportation.

SEC. 222. [42 U.S.C. 12142] PUBLIC ENTITIES OPERATING FIXED ROUTE SYSTEMS.

(a) **PURCHASE AND LEASE OF NEW VEHICLES.**—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system to purchase or lease a new bus, a new rapid rail vehicle, a new light rail vehicle, or any other new vehicle to be used on such system, if the solicitation for such purchase or lease is made after the 30th day following the effective date of this subsection and if such bus, rail vehicle, or other vehicle is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(b) **PURCHASE AND LEASE OF USED VEHICLES.**—Subject to subsection (c)(1), it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system to purchase or lease, after the 30th day following the effective date of this subsection, a used vehicle for use on such system unless such entity makes demonstrated good faith efforts to purchase or lease a used vehicle for use on such system that is

readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) REMANUFACTURED VEHICLES.—

(1) GENERAL RULE.—Except as provided in paragraph (2), it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system—

(A) to remanufacture a vehicle for use on such system so as to extend its usable life for 5 years or more, which remanufacture begins (or for which the solicitation is made) after the 30th day following the effective date of this subsection; or

(B) to purchase or lease for use on such system a remanufactured vehicle which has been remanufactured so as to extend its usable life for 5 years or more, which purchase or lease occurs after such 30th day and during the period in which the usable life is extended; unless, after remanufacture, the vehicle is, to the maximum extent feasible, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) EXCEPTION FOR HISTORIC VEHICLES.—

(A) GENERAL RULE.—If a public entity operates a fixed route system any segment of which is included on the National Register of Historic Places and if making a vehicle of historic character to be used solely on such segment readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of paragraph (1) and which do not significantly alter the historic character of such vehicle.

(B) VEHICLES OF HISTORIC CHARACTER DEFINED BY REGULATIONS.—For purposes of this paragraph and section 228(b), a vehicle of historic character shall be defined by the regulations issued by the Secretary to carry out this subsection.

SEC. 223. [42 U.S.C. 12143] PARATRANSIT AS A COMPLEMENT TO FIXED ROUTE SERVICE.

(a) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a public entity which operates a fixed route system (other than a system which provides solely commuter bus service) to fail to provide with respect to the operations of its fixed route system, in accordance with this section, paratransit and other special transportation services to individuals with disabilities, including individuals who use wheelchairs, that are sufficient to provide to such individuals a level of service (1) which is comparable to the level of designated public transportation services provided to individuals without disabilities using such system; or (2) in the case of response time, which is comparable, to the extent practicable, to the level of designated public transportation services provided to individuals without disabilities using such system.

(b) ISSUANCE OF REGULATIONS.—Not later than 1 year after the effective date of this subsection, the Secretary shall issue final regulations to carry out this section.

(c) REQUIRED CONTENTS OF REGULATIONS.—

(1) ELIGIBLE RECIPIENTS OF SERVICE.—The regulations issued under this section shall require each public entity which operates a fixed route system to provide the paratransit and other special transportation services required under this section—

(A)(i) to any individual with a disability who is unable, as a result of a physical or mental impairment (including a vision impairment) and without the assistance of another individual (except an operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities;

(ii) to any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device (and is able with such assistance) to board, ride, and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route on the system during the hours of operation of the system at a time (or within a reasonable period of such time) when such a vehicle is not being used to provide designated public transportation on the route; and

(iii) to any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system;

(B) to one other individual accompanying the individual with the disability; and

(C) to other individuals, in addition to the one individual described in subparagraph (B), accompanying the individual with a disability provided that space for these additional individuals is available on the paratransit vehicle carrying the individual with a disability and that the transportation of such additional individuals will not result in a denial of service to individuals with disabilities.

For purposes of clauses (i) and (ii) of subparagraph (A), boarding or disembarking from a vehicle does not include travel to the boarding location or from the disembarking location.

(2) SERVICE AREA.—The regulations issued under this section shall require the provision of paratransit and special transportation services required under this section in the service area of each public entity which operates a fixed route system, other than any portion of the service area in which the public entity solely provides commuter bus service.

(3) SERVICE CRITERIA.—Subject to paragraphs (1) and (2), the regulations issued under this section shall establish minimum service criteria for determining the level of services to be required under this section.

(4) UNDUE FINANCIAL BURDEN LIMITATION.—The regulations issued under this section shall provide that, if the public entity is able to demonstrate to the satisfaction of the Sec-

retary that the provision of paratransit and other special transportation services otherwise required under this section would impose an undue financial burden on the public entity, the public entity, notwithstanding any other provision of this section (other than paragraph (5)), shall only be required to provide such services to the extent that providing such services would not impose such a burden.

(5) **ADDITIONAL SERVICES.**—The regulations issued under this section shall establish circumstances under which the Secretary may require a public entity to provide, notwithstanding paragraph (4), paratransit and other special transportation services under this section beyond the level of paratransit and other special transportation services which would otherwise be required under paragraph (4).

(6) **PUBLIC PARTICIPATION.**—The regulations issued under this section shall require that each public entity which operates a fixed route system hold a public hearing, provide an opportunity for public comment, and consult with individuals with disabilities in preparing its plan under paragraph (7).

(7) **PLANS.**—The regulations issued under this section shall require that each public entity which operates a fixed route system—

(A) within 18 months after the effective date of this subsection, submit to the Secretary, and commence implementation of, a plan for providing paratransit and other special transportation services which meets the requirements of this section; and

(B) on an annual basis thereafter, submit to the Secretary, and commence implementation of, a plan for providing such services.

(8) **PROVISION OF SERVICES BY OTHERS.**—The regulations issued under this section shall—

(A) require that a public entity submitting a plan to the Secretary under this section identify in the plan any person or other public entity which is providing a paratransit or other special transportation service for individuals with disabilities in the service area to which the plan applies; and

(B) provide that the public entity submitting the plan does not have to provide under the plan such service for individuals with disabilities.

(9) **OTHER PROVISIONS.**—The regulations issued under this section shall include such other provisions and requirements as the Secretary determines are necessary to carry out the objectives of this section.

(d) **REVIEW OF PLAN.**—

(1) **GENERAL RULE.**—The Secretary shall review a plan submitted under this section for the purpose of determining whether or not such plan meets the requirements of this section, including the regulations issued under this section.

(2) **DISAPPROVAL.**—If the Secretary determines that a plan reviewed under this subsection fails to meet the requirements of this section, the Secretary shall disapprove the plan and notify the public entity which submitted the plan of such disapproval and the reasons therefor.

(3) MODIFICATION OF DISAPPROVED PLAN.—Not later than 90 days after the date of disapproval of a plan under this subsection, the public entity which submitted the plan shall modify the plan to meet the requirements of this section and shall submit to the Secretary, and commence implementation of, such modified plan.

(e) DISCRIMINATION DEFINED.—As used in subsection (a), the term “discrimination” includes—

(1) a failure of a public entity to which the regulations issued under this section apply to submit, or commence implementation of, a plan in accordance with subsections (c)(6) and (c)(7);

(2) a failure of such entity to submit, or commence implementation of, a modified plan in accordance with subsection (d)(3);

(3) submission to the Secretary of a modified plan under subsection (d)(3) which does not meet the requirements of this section; or

(4) a failure of such entity to provide paratransit or other special transportation services in accordance with the plan or modified plan the public entity submitted to the Secretary under this section.

(f) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as preventing a public entity—

(1) from providing paratransit or other special transportation services at a level which is greater than the level of such services which are required by this section,

(2) from providing paratransit or other special transportation services in addition to those paratransit and special transportation services required by this section, or

(3) from providing such services to individuals in addition to those individuals to whom such services are required to be provided by this section.

SEC. 224. [42 U.S.C. 12144] PUBLIC ENTITY OPERATING A DEMAND RESPONSIVE SYSTEM.

If a public entity operates a demand responsive system, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for such entity to purchase or lease a new vehicle for use on such system, for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, unless such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service such system provides to individuals without disabilities.

SEC. 225. [42 U.S.C. 12145] TEMPORARY RELIEF WHERE LIFTS ARE UNAVAILABLE.

(a) GRANTING.—With respect to the purchase of new buses, a public entity may apply for, and the Secretary may temporarily relieve such public entity from the obligation under section 222(a) or 224 to purchase new buses that are readily accessible to and usable by individuals with disabilities if such public entity demonstrates to the satisfaction of the Secretary—

(1) that the initial solicitation for new buses made by the public entity specified that all new buses were to be lift-equipped and were to be otherwise accessible to and usable by individuals with disabilities;

(2) the unavailability from any qualified manufacturer of hydraulic, electromechanical, or other lifts for such new buses;

(3) that the public entity seeking temporary relief has made good faith efforts to locate a qualified manufacturer to supply the lifts to the manufacturer of such buses in sufficient time to comply with such solicitation; and

(4) that any further delay in purchasing new buses necessary to obtain such lifts would significantly impair transportation services in the community served by the public entity.

(b) DURATION AND NOTICE TO CONGRESS.—Any relief granted under subsection (a) shall be limited in duration by a specified date, and the appropriate committees of Congress shall be notified of any such relief granted.

(c) FRAUDULENT APPLICATION.—If, at any time, the Secretary has reasonable cause to believe that any relief granted under subsection (a) was fraudulently applied for, the Secretary shall—

(1) cancel such relief if such relief is still in effect; and

(2) take such other action as the Secretary considers appropriate.

SEC. 226. [42 U.S.C. 12146] NEW FACILITIES.

For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity to construct a new facility to be used in the provision of designated public transportation services unless such facility is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

SEC. 227. [42 U.S.C. 12147] ALTERATIONS OF EXISTING FACILITIES.

(a) GENERAL RULE.—With respect to alterations of an existing facility or part thereof used in the provision of designated public transportation services that affect or could affect the usability of the facility or part thereof, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for a public entity to fail to make such alterations (or to ensure that the alterations are made) in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon the completion of such alterations. Where the public entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) SPECIAL RULE FOR STATIONS.—

(1) GENERAL RULE.—For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity that provides designated public transportation to fail, in accordance with the provisions of this subsection, to make key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(2) RAPID RAIL AND LIGHT RAIL KEY STATIONS.—

(A) ACCESSIBILITY.—Except as otherwise provided in this paragraph, all key stations (as determined under criteria established by the Secretary by regulation) in rapid rail and light rail systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 3-year period beginning on the effective date of this paragraph.

(B) EXTENSION FOR EXTRAORDINARILY EXPENSIVE STRUCTURAL CHANGES.—The Secretary may extend the 3-year period under subparagraph (A) up to a 30-year period for key stations in a rapid rail or light rail system which stations need extraordinarily expensive structural changes to, or replacement of, existing facilities; except that by the last day of the 20th year following the date of the enactment of this Act at least $\frac{2}{3}$ of such key stations must be readily accessible to and usable by individuals with disabilities.

(3) PLANS AND MILESTONES.—The Secretary shall require the appropriate public entity to develop and submit to the Secretary a plan for compliance with this subsection—

(A) that reflects consultation with individuals with disabilities affected by such plan and the results of a public hearing and public comments on such plan, and

(B) that establishes milestones for achievement of the requirements of this subsection.

SEC. 228. [42 U.S.C. 12148] PUBLIC TRANSPORTATION PROGRAMS AND ACTIVITIES IN EXISTING FACILITIES AND ONE CAR PER TRAIN RULE.

(a) PUBLIC TRANSPORTATION PROGRAMS AND ACTIVITIES IN EXISTING FACILITIES.—

(1) IN GENERAL.—With respect to existing facilities used in the provision of designated public transportation services, it shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), for a public entity to fail to operate a designated public transportation program or activity conducted in such facilities so that, when viewed in the entirety, the program or activity is readily accessible to and usable by individuals with disabilities.

(2) EXCEPTION.—Paragraph (1) shall not require a public entity to make structural changes to existing facilities in order to make such facilities accessible to individuals who use wheelchairs, unless and to the extent required by section 227(a) (re-

lating to alterations) or section 227(b) (relating to key stations).

(3) UTILIZATION.—Paragraph (1) shall not require a public entity to which paragraph (2) applies, to provide to individuals who use wheelchairs services made available to the general public at such facilities when such individuals could not utilize or benefit from such services provided at such facilities.

(b) ONE CAR PER TRAIN RULE.—

(1) GENERAL RULE.—Subject to paragraph (2), with respect to 2 or more vehicles operated as a train by a light or rapid rail system, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it shall be considered discrimination for a public entity to fail to have at least 1 vehicle per train that is accessible to individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than the last day of the 5-year period beginning on the effective date of this section.

(2) HISTORIC TRAINS.—In order to comply with paragraph (1) with respect to the remanufacture of a vehicle of historic character which is to be used on a segment of a light or rapid rail system which is included on the National Register of Historic Places, if making such vehicle readily accessible to and usable by individuals with disabilities would significantly alter the historic character of such vehicle, the public entity which operates such system only has to make (or to purchase or lease a remanufactured vehicle with) those modifications which are necessary to meet the requirements of section 222(c)(1) and which do not significantly alter the historic character of such vehicle.

SEC. 229. [42 U.S.C. 12149] REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this part (other than section 223).

(b) STANDARDS.—The regulations issued under this section and section 223 shall include standards applicable to facilities and vehicles covered by this subtitle. The standards shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504 of this Act.

SEC. 230. [42 U.S.C. 12150] INTERIM ACCESSIBILITY REQUIREMENTS.

If final regulations have not been issued pursuant to section 229, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under sections 226 and 227, except that, if such final regulations have not been issued one year after the Architectural and Trans-

portation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

SEC. 231. [42 U.S.C. 12141 nt] EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this part shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Sections 222, 223 (other than subsection (a)), 224, 225, 227(b), 228(b), and 229 shall become effective on the date of enactment of this Act.

**PART II—PUBLIC TRANSPORTATION BY INTERCITY AND
COMMUTER RAIL**

SEC. 241. [42 U.S.C. 12161] DEFINITIONS.

As used in this part:

(1) COMMUTER AUTHORITY.—The term “commuter authority” has the meaning given such term in section 103(8) of the Rail Passenger Service Act (45 U.S.C. 502(8)).

(2) COMMUTER RAIL TRANSPORTATION.—The term “commuter rail transportation” has the meaning given the term “commuter rail passenger transportation” in section 103(9) of the Rail Passenger Service Act (45 U.S.C. 502(9)).

(3) INTERCITY RAIL TRANSPORTATION.—The term “intercity rail transportation” means transportation provided by the National Railroad Passenger Corporation.

(4) RAIL PASSENGER CAR.—The term “rail passenger car” means, with respect to intercity rail transportation, single-level and bi-level coach cars, single-level and bi-level dining cars, single-level and bi-level sleeping cars, single-level and bi-level lounge cars, and food service cars.

(5) RESPONSIBLE PERSON.—The term “responsible person” means—

(A) in the case of a station more than 50 percent of which is owned by a public entity, such public entity;

(B) in the case of a station more than 50 percent of which is owned by a private party, the persons providing intercity or commuter rail transportation to such station, as allocated on an equitable basis by regulation by the Secretary of Transportation; and

(C) in a case where no party owns more than 50 percent of a station, the persons providing intercity or commuter rail transportation to such station and the owners of the station, other than private party owners, as allocated on an equitable basis by regulation by the Secretary of Transportation.

(6) STATION.—The term “station” means the portion of a property located appurtenant to a right-of-way on which intercity or commuter rail transportation is operated, where such portion is used by the general public and is related to the provision of such transportation, including passenger platforms, designated waiting areas, ticketing areas, restrooms, and,

where a public entity providing rail transportation owns the property, concession areas, to the extent that such public entity exercises control over the selection, design, construction, or alteration of the property, but such term does not include flag stops.

SEC. 242. [42 U.S.C. 12162] INTERCITY AND COMMUTER RAIL ACTIONS CONSIDERED DISCRIMINATORY.

(a) INTERCITY RAIL TRANSPORTATION.—

(1) ONE CAR PER TRAIN RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides intercity rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 244, as soon as practicable, but in no event later than 5 years after the date of enactment of this Act.

(2) NEW INTERCITY CARS.—

(A) GENERAL RULE.—Except as otherwise provided in this subsection with respect to individuals who use wheelchairs, it shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease any new rail passenger cars for use in intercity rail transportation, and for which a solicitation is made later than 30 days after the effective date of this section, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(B) SPECIAL RULE FOR SINGLE-LEVEL PASSENGER COACHES FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Single-level passenger coaches shall be required to—

(i) be able to be entered by an individual who uses a wheelchair;

(ii) have space to park and secure a wheelchair;

(iii) have a seat to which a passenger in a wheelchair can transfer, and a space to fold and store such passenger's wheelchair; and

(iv) have a restroom usable by an individual who uses a wheelchair,

only to the extent provided in paragraph (3).

(C) SPECIAL RULE FOR SINGLE-LEVEL DINING CARS FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Single-level dining cars shall not be required to—

(i) be able to be entered from the station platform by an individual who uses a wheelchair; or

(ii) have a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger.

(D) SPECIAL RULE FOR BI-LEVEL DINING CARS FOR INDIVIDUALS WHO USE WHEELCHAIRS.—Bi-level dining cars shall not be required to—

- (i) be able to be entered by an individual who uses a wheelchair;
- (ii) have space to park and secure a wheelchair;
- (iii) have a seat to which a passenger in a wheelchair can transfer, or a space to fold and store such passenger's wheelchair; or
- (iv) have a restroom usable by an individual who uses a wheelchair.

(3) ACCESSIBILITY OF SINGLE-LEVEL COACHES.—

(A) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides intercity rail transportation to fail to have on each train which includes one or more single-level rail passenger coaches—

- (i) a number of spaces—

- (I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than one-half of the number of single-level rail passenger coaches in such train; and

- (II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than one-half of the number of single-level rail passenger coaches in such train,

as soon as practicable, but in no event later than 5 years after the date of enactment of this Act; and

- (ii) a number of spaces—

- (I) to park and secure wheelchairs (to accommodate individuals who wish to remain in their wheelchairs) equal to not less than the total number of single-level rail passenger coaches in such train; and

- (II) to fold and store wheelchairs (to accommodate individuals who wish to transfer to coach seats) equal to not less than the total number of single-level rail passenger coaches in such train,

as soon as practicable, but in no event later than 10 years after the date of enactment of this Act.

(B) LOCATION.—Spaces required by subparagraph (A) shall be located in single-level rail passenger coaches or food service cars.

(C) LIMITATION.—Of the number of spaces required on a train by subparagraph (A), not more than two spaces to park and secure wheelchairs nor more than two spaces to fold and store wheelchairs shall be located in any one coach or food service car.

(D) OTHER ACCESSIBILITY FEATURES.—Single-level rail passenger coaches and food service cars on which the spaces required by subparagraph (A) are located shall have a restroom usable by an individual who uses a wheelchair and shall be able to be entered from the station platform by an individual who uses a wheelchair.

(4) FOOD SERVICE.—

(A) SINGLE-LEVEL DINING CARS.—On any train in which a single-level dining car is used to provide food service—

(i) if such single-level dining car was purchased after the date of enactment of this Act, table service in such car shall be provided to a passenger who uses a wheelchair if—

(I) the car adjacent to the end of the dining car through which a wheelchair may enter is itself accessible to a wheelchair;

(II) such passenger can exit to the platform from the car such passenger occupies, move down the platform, and enter the adjacent accessible car described in subclause (I) without the necessity of the train being moved within the station; and

(III) space to park and secure a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to remain in a wheelchair), or space to store and fold a wheelchair is available in the dining car at the time such passenger wishes to eat (if such passenger wishes to transfer to a dining car seat); and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

Unless not practicable, a person providing intercity rail transportation shall place an accessible car adjacent to the end of a dining car described in clause (i) through which an individual who uses a wheelchair may enter.

(B) BI-LEVEL DINING CARS.—On any train in which a bi-level dining car is used to provide food service—

(i) if such train includes a bi-level lounge car purchased after the date of enactment of this Act, table service in such lounge car shall be provided to individuals who use wheelchairs and to other passengers; and

(ii) appropriate auxiliary aids and services, including a hard surface on which to eat, shall be provided to ensure that other equivalent food service is available to individuals with disabilities, including individuals who use wheelchairs, and to passengers traveling with such individuals.

(b) COMMUTER RAIL TRANSPORTATION.—

(1) ONE CAR PER TRAIN RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person who provides commuter rail transportation to fail to have at least one passenger car per train that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, in accordance with regulations issued under section 244, as soon as practicable, but in no

event later than 5 years after the date of enactment of this Act.

(2) NEW COMMUTER RAIL CARS.—

(A) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease any new rail passenger cars for use in commuter rail transportation, and for which a solicitation is made later than 30 days after the effective date of this section, unless all such rail cars are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(B) ACCESSIBILITY.—For purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), a requirement that a rail passenger car used in commuter rail transportation be accessible to or readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, shall not be construed to require—

(i) a restroom usable by an individual who uses a wheelchair if no restroom is provided in such car for any passenger;

(ii) space to fold and store a wheelchair; or

(iii) a seat to which a passenger who uses a wheelchair can transfer.

(c) USED RAIL CARS.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease a used rail passenger car for use in intercity or commuter rail transportation, unless such person makes demonstrated good faith efforts to purchase or lease a used rail car that is readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(d) REMANUFACTURED RAIL CARS.—

(1) REMANUFACTURING.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to remanufacture a rail passenger car for use in intercity or commuter rail transportation so as to extend its usable life for 10 years or more, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(2) PURCHASE OR LEASE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to purchase or lease a remanufactured rail passenger car for use in intercity or commuter rail transportation unless such car was remanufactured in accordance with paragraph (1).

(e) STATIONS.—

(1) NEW STATIONS.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a person to build a new station for use in intercity or commuter rail transportation that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(2) EXISTING STATIONS.—

(A) FAILURE TO MAKE READILY ACCESSIBLE.—

(i) GENERAL RULE.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for a responsible person to fail to make existing stations in the intercity rail transportation system, and existing key stations in commuter rail transportation systems, readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as prescribed by the Secretary of Transportation in regulations issued under section 244.

(ii) PERIOD FOR COMPLIANCE.—

(I) INTERCITY RAIL.—All stations in the intercity rail transportation system shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable, but in no event later than 20 years after the date of enactment of this Act.

(II) COMMUTER RAIL.—Key stations in commuter rail transportation systems shall be made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, as soon as practicable but in no event later than 3 years after the date of enactment of this Act, except that the time limit may be extended by the Secretary of Transportation up to 20 years after the date of enactment of this Act in a case where the raising of the entire passenger platform is the only means available of attaining accessibility or where other extraordinarily expensive structural changes are necessary to attain accessibility.

(iii) DESIGNATION OF KEY STATIONS.—Each commuter authority shall designate the key stations in its commuter rail transportation system, in consultation with individuals with disabilities and organizations representing such individuals, taking into consideration such factors as high ridership and whether such station serves as a transfer or feeder station. Before the final designation of key stations under this clause, a commuter authority shall hold a public hearing.

(iv) PLANS AND MILESTONES.—The Secretary of Transportation shall require the appropriate person to develop a plan for carrying out this subparagraph that

reflects consultation with individuals with disabilities affected by such plan and that establishes milestones for achievement of the requirements of this subparagraph.

(B) REQUIREMENT WHEN MAKING ALTERATIONS.—

(i) GENERAL RULE.—It shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), with respect to alterations of an existing station or part thereof in the intercity or commuter rail transportation systems that affect or could affect the usability of the station or part thereof, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the altered portions of the station are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations.

(ii) ALTERATIONS TO A PRIMARY FUNCTION AREA.—It shall be considered discrimination, for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), with respect to alterations that affect or could affect the usability of or access to an area of the station containing a primary function, for the responsible person, owner, or person in control of the station to fail to make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area, and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs, upon completion of such alterations, where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(C) REQUIRED COOPERATION.—It shall be considered discrimination for purposes of section 202 of this Act and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) for an owner, or person in control, of a station governed by subparagraph (A) or (B) to fail to provide reasonable cooperation to a responsible person with respect to such station in that responsible person's efforts to comply with such subparagraph. An owner, or person in control, of a station shall be liable to a responsible person for any failure to provide reasonable cooperation as required by this subparagraph. Failure to receive reasonable cooperation required by this subparagraph shall not be a defense to a claim of discrimination under this Act.

SEC. 243. [42 U.S.C. 12163] CONFORMANCE OF ACCESSIBILITY STANDARDS.

Accessibility standards included in regulations issued under this part shall be consistent with the minimum guidelines issued by the Architectural and Transportation Barriers Compliance Board under section 504(a) of this Act.

SEC. 244. [42 U.S.C. 12164] REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall issue regulations, in an accessible format, necessary for carrying out this part.

SEC. 245. [42 U.S.C. 12165] INTERIM ACCESSIBILITY REQUIREMENTS.

(a) STATIONS.—If final regulations have not been issued pursuant to section 244, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under such section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities as required under section 242(e), except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that stations be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(b) RAIL PASSENGER CARS.—If final regulations have not been issued pursuant to section 244, a person shall be considered to have complied with the requirements of section 242 (a) through (d) that a rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 504(a) of this Act) governing accessibility of such cars, to the extent that such laws and regulations are not inconsistent with this part and are in effect at the time such design is substantially completed.

SEC. 246. [42 U.S.C. 12161 nt] EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this part shall become effective 18 months after the date of enactment of this Act.

(b) EXCEPTION.—Sections 242 and 244 shall become effective on the date of enactment of this Act.

TITLE III—PUBLIC ACCOMMODATIONS AND SERVICES OPERATED BY PRIVATE ENTITIES ¹

SEC. 301. [42 U.S.C. 12181] DEFINITIONS.

As used in this title:

(1) **COMMERCE.**—The term “commerce” means travel, trade, traffic, commerce, transportation, or communication—

(A) among the several States;

(B) between any foreign country or any territory or possession and any State; or

(C) between points in the same State but through another State or foreign country.

(2) **COMMERCIAL FACILITIES.**—The term “commercial facilities” means facilities—

(A) that are intended for nonresidential use; and

(B) whose operations will affect commerce.

Such term shall not include railroad locomotives, railroad freight cars, railroad cabooses, railroad cars described in section 242 or covered under this title, railroad rights-of-way, or facilities that are covered or expressly exempted from coverage under the Fair Housing Act of 1968 (42 U.S.C. 3601 et seq.).

(3) **DEMAND RESPONSIVE SYSTEM.**—The term “demand responsive system” means any system of providing transportation of individuals by a vehicle, other than a system which is a fixed route system.

(4) **FIXED ROUTE SYSTEM.**—The term “fixed route system” means a system of providing transportation of individuals (other than by aircraft) on which a vehicle is operated along a prescribed route according to a fixed schedule.

(5) **OVER-THE-ROAD BUS.**—The term “over-the-road bus” means a bus characterized by an elevated passenger deck located over a baggage compartment.

(6) **PRIVATE ENTITY.**—The term “private entity” means any entity other than a public entity (as defined in section 201(1)).

(7) **PUBLIC ACCOMMODATION.**—The following private entities are considered public accommodations for purposes of this title, if the operations of such entities affect commerce—

(A) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that

¹With respect to the applicability of this title to the legislative branch of the Federal Government, see section 210 of Public Law 104-1 (109 Stat. 13). (See also footnote 1 on page 79.) Section 210(h) provides as follows:

“(h) **EFFECTIVE DATE.**—

“(1) **IN GENERAL.**—Subsections (b), (c), and (d) shall be effective on January 1, 1997.

“(2) **GENERAL ACCOUNTING OFFICE, GOVERNMENT PRINTING OFFICE, AND LIBRARY OF CONGRESS.**—Subsection (g) shall be effective 1 year after transmission to the Congress of the study under section 230.”

In such section 210, subsection (b) relates to the applicability of this title to certain entities; subsection (c) relates to a remedy; subsection (d) relates to procedures; subsection (e) relates to regulations; subsection (f) relates to periodic inspections and reports, and to an initial study; and subsection (g) relates to the General Accounting Office, the Government Printing Office, and the Library of Congress. (With respect to section 230, which is referred to in subsection (h)(2) of section 210, see 109 Stat. 23.)

is actually occupied by the proprietor of such establishment as the residence of such proprietor;

(B) a restaurant, bar, or other establishment serving food or drink;

(C) a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;

(D) an auditorium, convention center, lecture hall, or other place of public gathering;

(E) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(F) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(G) a terminal, depot, or other station used for specified public transportation;

(H) a museum, library, gallery, or other place of public display or collection;

(I) a park, zoo, amusement park, or other place of recreation;

(J) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;

(K) a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(L) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

(8) RAIL AND RAILROAD.—The terms “rail” and “railroad” have the meaning given the term “railroad” in section 202(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(e)).

(9) READILY ACHIEVABLE.—The term “readily achievable” means easily accomplishable and able to be carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include—

(A) the nature and cost of the action needed under this Act;

(B) the overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(C) the overall financial resources of the covered entity; the overall size of the business of a covered entity with respect to the number of its employees; the number, type, and location of its facilities; and

(D) the type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative or fiscal relationship of the facility or facilities in question to the covered entity.

(10) SPECIFIED PUBLIC TRANSPORTATION.—The term “specified public transportation” means transportation by bus, rail, or any other conveyance (other than by aircraft) that provides

the general public with general or special service (including charter service) on a regular and continuing basis.

(11) VEHICLE.—The term “vehicle” does not include a rail passenger car, railroad locomotive, railroad freight car, railroad caboose, or a railroad car described in section 242 or covered under this title.

SEC. 302. [42 U.S.C. 12182] PROHIBITION OF DISCRIMINATION BY PUBLIC ACCOMMODATIONS.

(a) GENERAL RULE.—No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.

(b) CONSTRUCTION.—

(1) GENERAL PROHIBITION.—

(A) ACTIVITIES.—

(i) DENIAL OF PARTICIPATION.—It shall be discriminatory to subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

(ii) PARTICIPATION IN UNEQUAL BENEFIT.—It shall be discriminatory to afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

(iii) SEPARATE BENEFIT.—It shall be discriminatory to provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(iv) INDIVIDUAL OR CLASS OF INDIVIDUALS.—For purposes of clauses (i) through (iii) of this subparagraph, the term “individual or class of individuals” refers to the clients or customers of the covered public accommodation that enters into the contractual, licensing or other arrangement.

(B) INTEGRATED SETTINGS.—Goods, services, facilities, privileges, advantages, and accommodations shall be afforded to an individual with a disability in the most integrated setting appropriate to the needs of the individual.

(C) OPPORTUNITY TO PARTICIPATE.—Notwithstanding the existence of separate or different programs or activities provided in accordance with this section, an individual with a disability shall not be denied the opportunity to participate in such programs or activities that are not separate or different.

(D) ADMINISTRATIVE METHODS.—An individual or entity shall not, directly or through contractual or other arrangements, utilize standards or criteria or methods of administration—

(i) that have the effect of discriminating on the basis of disability; or

(ii) that perpetuate the discrimination of others who are subject to common administrative control.

(E) ASSOCIATION.—It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, privileges, advantages, accommodations, or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

(2) SPECIFIC PROHIBITIONS.—

(A) DISCRIMINATION.—For purposes of subsection (a), discrimination includes—

(i) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, advantages, or accommodations being offered;

(ii) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such goods, services, facilities, privileges, advantages, or accommodations;

(iii) a failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden;

(iv) a failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, and transportation barriers in existing vehicles and rail passenger cars used by an establishment for transporting individuals (not including barriers that can only be removed through the retro-

fitting of vehicles or rail passenger cars by the installation of a hydraulic or other lift), where such removal is readily achievable; and

(v) where an entity can demonstrate that the removal of a barrier under clause (iv) is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

(B) FIXED ROUTE SYSTEM.—

(i) ACCESSIBILITY.—It shall be considered discrimination for a private entity which operates a fixed route system and which is not subject to section 304 to purchase or lease a vehicle with a seating capacity in excess of 16 passengers (including the driver) for use on such system, for which a solicitation is made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(ii) EQUIVALENT SERVICE.—If a private entity which operates a fixed route system and which is not subject to section 304 purchases or leases a vehicle with a seating capacity of 16 passengers or less (including the driver) for use on such system after the effective date of this subparagraph that is not readily accessible to or usable by individuals with disabilities, it shall be considered discrimination for such entity to fail to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities.

(C) DEMAND RESPONSIVE SYSTEM.—For purposes of subsection (a), discrimination includes—

(i) a failure of a private entity which operates a demand responsive system and which is not subject to section 304 to operate such system so that, when viewed in its entirety, such system ensures a level of service to individuals with disabilities, including individuals who use wheelchairs, equivalent to the level of service provided to individuals without disabilities; and

(ii) the purchase or lease by such entity for use on such system of a vehicle with a seating capacity in excess of 16 passengers (including the driver), for which solicitations are made after the 30th day following the effective date of this subparagraph, that is not readily accessible to and usable by individuals with disabilities (including individuals who use wheelchairs) unless such entity can demonstrate that such system, when viewed in its entirety, provides a level of service to individuals with disabilities equivalent to that provided to individuals without disabilities.

(D) OVER-THE-ROAD BUSES.—

(i) LIMITATION ON APPLICABILITY.—Subparagraphs (B) and (C) do not apply to over-the-road buses.

(ii) ACCESSIBILITY REQUIREMENTS.—For purposes of subsection (a), discrimination includes (I) the purchase or lease of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2) by a private entity which provides transportation of individuals and which is not primarily engaged in the business of transporting people, and (II) any other failure of such entity to comply with such regulations.

(3) SPECIFIC CONSTRUCTION.—Nothing in this title shall require an entity to permit an individual to participate in or benefit from the goods, services, facilities, privileges, advantages and accommodations of such entity where such individual poses a direct threat to the health or safety of others. The term “direct threat” means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids or services.

SEC. 303. [42 U.S.C. 12183] NEW CONSTRUCTION AND ALTERATIONS IN PUBLIC ACCOMMODATIONS AND COMMERCIAL FACILITIES.

(a) APPLICATION OF TERM.—Except as provided in subsection (b), as applied to public accommodations and commercial facilities, discrimination for purposes of section 302(a) includes—

(1) a failure to design and construct facilities for first occupancy later than 30 months after the date of enactment of this Act that are readily accessible to and usable by individuals with disabilities, except where an entity can demonstrate that it is structurally impracticable to meet the requirements of such subsection in accordance with standards set forth or incorporated by reference in regulations issued under this title; and

(2) with respect to a facility or part thereof that is altered by, on behalf of, or for the use of an establishment in a manner that affects or could affect the usability of the facility or part thereof, a failure to make alterations in such a manner that, to the maximum extent feasible, the altered portions of the facility are readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs. Where the entity is undertaking an alteration that affects or could affect usability of or access to an area of the facility containing a primary function, the entity shall also make the alterations in such a manner that, to the maximum extent feasible, the path of travel to the altered area and the bathrooms, telephones, and drinking fountains serving the altered area, are readily accessible to and usable by individuals with disabilities where such alterations to the path of travel or the bathrooms, telephones, and drinking fountains serving the altered area are not disproportionate to the overall alterations in terms of cost and scope (as determined under criteria established by the Attorney General).

(b) ELEVATOR.—Subsection (a) shall not be construed to require the installation of an elevator for facilities that are less than three

stories or have less than 3,000 square feet per story unless the building is a shopping center, a shopping mall, or the professional office of a health care provider or unless the Attorney General determines that a particular category of such facilities requires the installation of elevators based on the usage of such facilities.

SEC. 304. [42 U.S.C. 12184] PROHIBITION OF DISCRIMINATION IN SPECIFIED PUBLIC TRANSPORTATION SERVICES PROVIDED BY PRIVATE ENTITIES.

(a) **GENERAL RULE.**—No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of specified public transportation services provided by a private entity that is primarily engaged in the business of transporting people and whose operations affect commerce.

(b) **CONSTRUCTION.**—For purposes of subsection (a), discrimination includes—

(1) the imposition or application by a¹ entity described in subsection (a) of eligibility criteria that screen out or tend to screen out an individual with a disability or any class of individuals with disabilities from fully enjoying the specified public transportation services provided by the entity, unless such criteria can be shown to be necessary for the provision of the services being offered;

(2) the failure of such entity to—

(A) make reasonable modifications consistent with those required under section 302(b)(2)(A)(ii);

(B) provide auxiliary aids and services consistent with the requirements of section 302(b)(2)(A)(iii); and

(C) remove barriers consistent with the requirements of section 302(b)(2)(A) and with the requirements of section 303(a)(2);

(3) the purchase or lease by such entity of a new vehicle (other than an automobile, a van with a seating capacity of less than 8 passengers, including the driver, or an over-the-road bus) which is to be used to provide specified public transportation and for which a solicitation is made after the 30th day following the effective date of this section, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; except that the new vehicle need not be readily accessible to and usable by such individuals if the new vehicle is to be used solely in a demand responsive system and if the entity can demonstrate that such system, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(4)(A) the purchase or lease by such entity of an over-the-road bus which does not comply with the regulations issued under section 306(a)(2); and

(B) any other failure of such entity to comply with such regulations; and²

(5) the purchase or lease by such entity of a new van with a seating capacity of less than 8 passengers, including the driver, which is to be used to provide specified public transpor-

¹So in law. Probably should be “an”.

²So in law. The word “and” probably should not appear.

tation and for which a solicitation is made after the 30th day following the effective date of this section that is not readily accessible to or usable by individuals with disabilities, including individuals who use wheelchairs; except that the new van need not be readily accessible to and usable by such individuals if the entity can demonstrate that the system for which the van is being purchased or leased, when viewed in its entirety, provides a level of service to such individuals equivalent to the level of service provided to the general public;

(6) the purchase or lease by such entity of a new rail passenger car that is to be used to provide specified public transportation, and for which a solicitation is made later than 30 days after the effective date of this paragraph, that is not readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs; and

(7) the remanufacture by such entity of a rail passenger car that is to be used to provide specified public transportation so as to extend its usable life for 10 years or more, or the purchase or lease by such entity of such a rail car, unless the rail car, to the maximum extent feasible, is made readily accessible to and usable by individuals with disabilities, including individuals who use wheelchairs.

(c) HISTORICAL OR ANTIQUATED CARS.—

(1) EXCEPTION.—To the extent that compliance with subsection (b)(2)(C) or (b)(7) would significantly alter the historic or antiquated character of a historical or antiquated rail passenger car, or a rail station served exclusively by such cars, or would result in violation of any rule, regulation, standard, or order issued by the Secretary of Transportation under the Federal Railroad Safety Act of 1970, such compliance shall not be required.

(2) DEFINITION.—As used in this subsection, the term “historical or antiquated rail passenger car” means a rail passenger car—

(A) which is not less than 30 years old at the time of its use for transporting individuals;

(B) the manufacturer of which is no longer in the business of manufacturing rail passenger cars; and

(C) which—

(i) has a consequential association with events or persons significant to the past; or

(ii) embodies, or is being restored to embody, the distinctive characteristics of a type of rail passenger car used in the past, or to represent a time period which has passed.

SEC. 305. [42 U.S.C. 12185] STUDY.

(a) PURPOSES.—The Office of Technology Assessment shall undertake a study to determine—

(1) the access needs of individuals with disabilities to over-the-road buses and over-the-road bus service; and

(2) the most cost-effective methods for providing access to over-the-road buses and over-the-road bus service to individuals with disabilities, particularly individuals who use wheelchairs, through all forms of boarding options.

(b) CONTENTS.—The study shall include, at a minimum, an analysis of the following:

(1) The anticipated demand by individuals with disabilities for accessible over-the-road buses and over-the-road bus service.

(2) The degree to which such buses and service, including any service required under sections 304(b)(4) and 306(a)(2), are readily accessible to and usable by individuals with disabilities.

(3) The effectiveness of various methods of providing accessibility to such buses and service to individuals with disabilities.

(4) The cost of providing accessible over-the-road buses and bus service to individuals with disabilities, including consideration of recent technological and cost saving developments in equipment and devices.

(5) Possible design changes in over-the-road buses that could enhance accessibility, including the installation of accessible restrooms which do not result in a loss of seating capacity.

(6) The impact of accessibility requirements on the continuation of over-the-road bus service, with particular consideration of the impact of such requirements on such service to rural communities.

(c) ADVISORY COMMITTEE.—In conducting the study required by subsection (a), the Office of Technology Assessment shall establish an advisory committee, which shall consist of—

(1) members selected from among private operators and manufacturers of over-the-road buses;

(2) members selected from among individuals with disabilities, particularly individuals who use wheelchairs, who are potential riders of such buses; and

(3) members selected for their technical expertise on issues included in the study, including manufacturers of boarding assistance equipment and devices.

The number of members selected under each of paragraphs (1) and (2) shall be equal, and the total number of members selected under paragraphs (1) and (2) shall exceed the number of members selected under paragraph (3).

(d) DEADLINE.—The study required by subsection (a), along with recommendations by the Office of Technology Assessment, including any policy options for legislative action, shall be submitted to the President and Congress within 36 months after the date of the enactment of this Act. If the President determines that compliance with the regulations issued pursuant to section 306(a)(2)(B) on or before the applicable deadlines specified in section 306(a)(2)(B) will result in a significant reduction in intercity over-the-road bus service, the President shall extend each such deadline by 1 year.

(e) REVIEW.—In developing the study required by subsection (a), the Office of Technology Assessment shall provide a preliminary draft of such study to the Architectural and Transportation Barriers Compliance Board established under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792). The Board shall have an opportunity to comment on such draft study, and any such comments by the Board made in writing within 120 days after the

Board's receipt of the draft study shall be incorporated as part of the final study required to be submitted under subsection (d).

SEC. 306. [42 U.S.C. 12186] REGULATIONS.

(a) **TRANSPORTATION PROVISIONS.—**

(1) **GENERAL RULE.—**Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections¹ 302(b)(2) (B) and (C) and to carry out section 304 (other than subsection (b)(4)).

(2) **SPECIAL RULES FOR PROVIDING ACCESS TO OVER-THE-ROAD BUSES.—**

(A) **INTERIM REQUIREMENTS.—**

(i) **ISSUANCE.—**Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall issue regulations in an accessible format to carry out sections 304(b)(4) and 302(b)(2)(D)(ii) that require each private entity which uses an over-the-road bus to provide transportation of individuals to provide accessibility to such bus; except that such regulations shall not require any structural changes in over-the-road buses in order to provide access to individuals who use wheelchairs during the effective period of such regulations and shall not require the purchase of boarding assistance devices to provide access to such individuals.

(ii) **EFFECTIVE PERIOD.—**The regulations issued pursuant to this subparagraph shall be effective until the effective date of the regulations issued under subparagraph (B).

(B) **FINAL REQUIREMENT.—**

(i) **REVIEW OF STUDY AND INTERIM REQUIREMENTS.—**The Secretary shall review the study submitted under section 305 and the regulations issued pursuant to subparagraph (A).

(ii) **ISSUANCE.—**Not later than 1 year after the date of the submission of the study under section 305, the Secretary shall issue in an accessible format new regulations to carry out sections 304(b)(4) and 302(b)(2)(D)(ii) that require, taking into account the purposes of the study under section 305 and any recommendations resulting from such study, each private entity which uses an over-the-road bus to provide transportation to individuals to provide accessibility to such bus to individuals with disabilities, including individuals who use wheelchairs.

(iii) **EFFECTIVE PERIOD.—**Subject to section 305(d), the regulations issued pursuant to this subparagraph shall take effect—

(I) with respect to small providers of transportation (as defined by the Secretary), 3 years after the date of issuance of final regulations under clause (ii); and

¹ So in law. Probably should be "section".

(II) with respect to other providers of transportation, 2 years after the date of issuance of such final regulations.

(C) LIMITATION ON REQUIRING INSTALLATION OF ACCESSIBLE RESTROOMS.—The regulations issued pursuant to this paragraph shall not require the installation of accessible restrooms in over-the-road buses if such installation would result in a loss of seating capacity.

(3) STANDARDS.—The regulations issued pursuant to this subsection shall include standards applicable to facilities and vehicles covered by sections 302(b)(2) and 304.

(b) OTHER PROVISIONS.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall issue regulations in an accessible format to carry out the provisions of this title not referred to in subsection (a) that include standards applicable to facilities and vehicles covered under section 302.

(c) CONSISTENCY WITH ATBCB GUIDELINES.—Standards included in regulations issued under subsections (a) and (b) shall be consistent with the minimum guidelines and requirements issued by the Architectural and Transportation Barriers Compliance Board in accordance with section 504 of this Act.

(d) INTERIM ACCESSIBILITY STANDARDS.—

(1) FACILITIES.—If final regulations have not been issued pursuant to this section, for new construction or alterations for which a valid and appropriate State or local building permit is obtained prior to the issuance of final regulations under this section, and for which the construction or alteration authorized by such permit begins within one year of the receipt of such permit and is completed under the terms of such permit, compliance with the Uniform Federal Accessibility Standards in effect at the time the building permit is issued shall suffice to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities as required under section 303, except that, if such final regulations have not been issued one year after the Architectural and Transportation Barriers Compliance Board has issued the supplemental minimum guidelines required under section 504(a) of this Act, compliance with such supplemental minimum guidelines shall be necessary to satisfy the requirement that facilities be readily accessible to and usable by persons with disabilities prior to issuance of the final regulations.

(2) VEHICLES AND RAIL PASSENGER CARS.—If final regulations have not been issued pursuant to this section, a private entity shall be considered to have complied with the requirements of this title, if any, that a vehicle or rail passenger car be readily accessible to and usable by individuals with disabilities, if the design for such vehicle or car complies with the laws and regulations (including the Minimum Guidelines and Requirements for Accessible Design and such supplemental minimum guidelines as are issued under section 504(a) of this Act) governing accessibility of such vehicles or cars, to the extent that such laws and regulations are not inconsistent with this title and are in effect at the time such design is substantially completed.

SEC. 307. [42 U.S.C. 12187] EXEMPTIONS FOR PRIVATE CLUBS AND RELIGIOUS ORGANIZATIONS.

The provisions of this title shall not apply to private clubs or establishments exempted from coverage under title II of the Civil Rights Act of 1964 (42 U.S.C. 2000–a(e)) or to religious organizations or entities controlled by religious organizations, including places of worship.

SEC. 308. [42 U.S.C. 12188] ENFORCEMENT.**(a) IN GENERAL.—**

(1) **AVAILABILITY OF REMEDIES AND PROCEDURES.**—The remedies and procedures set forth in section 204(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000a–3(a)) are the remedies and procedures this title provides to any person who is being subjected to discrimination on the basis of disability in violation of this title or who has reasonable grounds for believing that such person is about to be subjected to discrimination in violation of section 303. Nothing in this section shall require a person with a disability to engage in a futile gesture if such person has actual notice that a person or organization covered by this title does not intend to comply with its provisions.

(2) **INJUNCTIVE RELIEF.**—In the case of violations of sections 302(b)(2)(A)(iv) and section ¹ 303(a), injunctive relief shall include an order to alter facilities to make such facilities readily accessible to and usable by individuals with disabilities to the extent required by this title. Where appropriate, injunctive relief shall also include requiring the provision of an auxiliary aid or service, modification of a policy, or provision of alternative methods, to the extent required by this title.

(b) ENFORCEMENT BY THE ATTORNEY GENERAL.—**(1) DENIAL OF RIGHTS.—****(A) DUTY TO INVESTIGATE.—**

(i) **IN GENERAL.**—The Attorney General shall investigate alleged violations of this title, and shall undertake periodic reviews of compliance of covered entities under this title.

(ii) **ATTORNEY GENERAL CERTIFICATION.**—On the application of a State or local government, the Attorney General may, in consultation with the Architectural and Transportation Barriers Compliance Board, and after prior notice and a public hearing at which persons, including individuals with disabilities, are provided an opportunity to testify against such certification, certify that a State law or local building code or similar ordinance that establishes accessibility requirements meets or exceeds the minimum requirements of this Act for the accessibility and usability of covered facilities under this title. At any enforcement proceeding under this section, such certification by the Attorney General shall be rebuttable evidence that such State law or local ordinance does meet or exceed the minimum requirements of this Act.

(B) POTENTIAL VIOLATION.—If the Attorney General has reasonable cause to believe that—

¹ So in law. The word “section” probably should not appear.

(i) any person or group of persons is engaged in a pattern or practice of discrimination under this title; or

(ii) any person or group of persons has been discriminated against under this title and such discrimination raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States district court.

(2) AUTHORITY OF COURT.—In a civil action under paragraph (1)(B), the court—

(A) may grant any equitable relief that such court considers to be appropriate, including, to the extent required by this title—

(i) granting temporary, preliminary, or permanent relief;

(ii) providing an auxiliary aid or service, modification of policy, practice, or procedure, or alternative method; and

(iii) making facilities readily accessible to and usable by individuals with disabilities;

(B) may award such other relief as the court considers to be appropriate, including monetary damages to persons aggrieved when requested by the Attorney General; and

(C) may, to vindicate the public interest, assess a civil penalty against the entity in an amount—

(i) not exceeding \$50,000 for a first violation; and

(ii) not exceeding \$100,000 for any subsequent violation.

(3) SINGLE VIOLATION.—For purposes of paragraph (2)(C), in determining whether a first or subsequent violation has occurred, a determination in a single action, by judgment or settlement, that the covered entity has engaged in more than one discriminatory act shall be counted as a single violation.

(4) PUNITIVE DAMAGES.—For purposes of subsection (b)(2)(B), the term “monetary damages” and “such other relief” does not include punitive damages.

(5) JUDICIAL CONSIDERATION.—In a civil action under paragraph (1)(B), the court, when considering what amount of civil penalty, if any, is appropriate, shall give consideration to any good faith effort or attempt to comply with this Act by the entity. In evaluating good faith, the court shall consider, among other factors it deems relevant, whether the entity could have reasonably anticipated the need for an appropriate type of auxiliary aid needed to accommodate the unique needs of a particular individual with a disability.

SEC. 309. [42 U.S.C. 12189] EXAMINATIONS AND COURSES.

Any person that offers examinations or courses related to applications, licensing, certification, or credentialing for secondary or postsecondary education, professional, or trade purposes shall offer such examinations or courses in a place and manner accessible to persons with disabilities or offer alternative accessible arrangements for such individuals.

SEC. 310. [42 U.S.C. 12181] EFFECTIVE DATE.

(a) **GENERAL RULE.**—Except as provided in subsections (b) and (c), this title shall become effective 18 months after the date of the enactment of this Act.

(b) **CIVIL ACTIONS.**—Except for any civil action brought for a violation of section 303, no civil action shall be brought for any act or omission described in section 302 which occurs—

(1) during the first 6 months after the effective date, against businesses that employ 25 or fewer employees and have gross receipts of \$1,000,000 or less; and

(2) during the first year after the effective date, against businesses that employ 10 or fewer employees and have gross receipts of \$500,000 or less.

(c) **EXCEPTION.**—Sections 302(a) for purposes of section 302(b)(2) (B) and (C) only, 304(a) for purposes of section 304(b)(3) only, 304(b)(3), 305, and 306 shall take effect on the date of the enactment of this Act.

TITLE IV—TELECOMMUNICATIONS

Note Regarding Title IV: This title (104 Stat. 366) amended the Communications Act of 1934 by adding two sections, section 225 (47 U.S.C. 225) and section 711 (47 U.S.C. 611). These two sections (which are not provisions of the Americans With Disabilities Act of 1990) currently appear as follows:

COMMUNICATIONS ACT OF 1934

* * * * *

“SEC. 225. TELECOMMUNICATIONS SERVICES FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS.

“(a) DEFINITIONS.—As used in this section—

“(1) COMMON CARRIER OR CARRIER.—The term ‘common carrier’ or ‘carrier’ includes any common carrier engaged in interstate communication by wire or radio as defined in section 3(h) and any common carrier engaged in intrastate communication by wire or radio, notwithstanding sections 2(b) and 221(b).

“(2) TDD.—The term ‘TDD’ means a Telecommunications Device for the Deaf, which is a machine that employs graphic communication in the transmission of coded signals through a wire or radio communication system.

“(3) TELECOMMUNICATIONS RELAY SERVICES.—The term ‘telecommunications relay services’ means telephone transmission services that provide the ability for an individual who has a hearing impairment or speech impairment to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing impairment or speech impairment to communicate using voice communication services by wire or radio. Such term includes services that enable two-way communication between an individual who uses a TDD or other nonvoice terminal device and an individual who does not use such a device.

“(b) AVAILABILITY OF TELECOMMUNICATIONS RELAY SERVICES.—

“(1) IN GENERAL.—In order to carry out the purposes established under section 1, to make available to all individuals in the United States a rapid, efficient nationwide communication service, and to increase the utility of the telephone system of the Nation, the Commission shall ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.

“(2) USE OF GENERAL AUTHORITY AND REMEDIES.—For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to common carriers engaged in intrastate communication as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier engaged in interstate communication. Any violation of this section by any common carrier engaged in intrastate communication shall be subject to the same remedies, penalties, and procedures as are applicable to a violation of this Act by a common carrier engaged in interstate communication.

“(c) PROVISION OF SERVICES.—Each common carrier providing telephone voice transmission services shall, not later than 3 years after the date of enactment of this section, provide in compliance with the regulations prescribed under this section, throughout the area in which it offers service, telecommunications relay services, individually, through designees, through a competitively selected vendor, or in concert with other carriers. A common carrier shall be considered to be in compliance with such regulations—

“(1) with respect to intrastate telecommunications relay services in any State that does not have a certified program under subsection (f) and with respect to interstate telecommunications relay services, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the Commission’s regulations under subsection (d); or

“(2) with respect to intrastate telecommunications relay services in any State that has a certified program under subsection (f) for such State, if such common carrier (or other entity through which the carrier is providing such relay services) is in compliance with the program certified under subsection (f) for such State.

“(d) REGULATIONS.—

“(1) IN GENERAL.—The Commission shall, not later than 1 year after the date of enactment of this section, prescribe regulations to implement this section, including regulations that—

“(A) establish functional requirements, guidelines, and operations procedures for telecommunications relay services;

“(B) establish minimum standards that shall be met in carrying out subsection (c);

“(C) require that telecommunications relay services operate every day for 24 hours per day;

“(D) require that users of telecommunications relay services pay rates no greater than the rates paid for func-

tionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from point of origination to point of termination;

“(E) prohibit relay operators from failing to fulfill the obligations of common carriers by refusing calls or limiting the length of calls that use telecommunications relay services;

“(F) prohibit relay operators from disclosing the content of any relayed conversation and from keeping records of the content of any such conversation beyond the duration of the call; and

“(G) prohibit relay operators from intentionally altering a relayed conversation.

“(2) TECHNOLOGY.—The Commission shall ensure that regulations prescribed to implement this section encourage, consistent with section 7(a) of this Act, the use of existing technology and do not discourage or impair the development of improved technology.

“(3) JURISDICTIONAL SEPARATION OF COSTS.—

“(A) IN GENERAL.—Consistent with the provisions of section 410 of this Act, the Commission shall prescribe regulations governing the jurisdictional separation of costs for the services provided pursuant to this section.

“(B) RECOVERING COSTS.—Such regulations shall generally provide that costs caused by interstate telecommunications relay services shall be recovered from all subscribers for every interstate service and costs caused by intrastate telecommunications relay services shall be recovered from the intrastate jurisdiction. In a State that has a certified program under subsection (f), a State commission shall permit a common carrier to recover the costs incurred in providing intrastate telecommunications relay services by a method consistent with the requirements of this section.

“(e) ENFORCEMENT.—

“(1) IN GENERAL.—Subject to subsections (f) and (g), the Commission shall enforce this section.

“(2) COMPLAINT.—The Commission shall resolve, by final order, a complaint alleging a violation of this section within 180 days after the date such complaint is filed.

“(f) CERTIFICATION.—

“(1) STATE DOCUMENTATION.—Any State desiring to establish a State program under this section shall submit documentation to the Commission that describes the program of such State for implementing intrastate telecommunications relay services and the procedures and remedies available for enforcing any requirements imposed by the State program.

“(2) REQUIREMENTS FOR CERTIFICATION.—After review of such documentation, the Commission shall certify the State program if the Commission determines that—

“(A) the program makes available to hearing-impaired and speech-impaired individuals, either directly, through designees, through a competitively selected vendor, or through regulation of intrastate common carriers, intra-

state telecommunications relay services in such State in a manner that meets or exceeds the requirements of regulations prescribed by the Commission under subsection (d); and

“(B) the program makes available adequate procedures and remedies for enforcing the requirements of the State program.

“(3) *METHOD OF FUNDING.*—Except as provided in subsection (d), the Commission shall not refuse to certify a State program based solely on the method such State will implement for funding intrastate telecommunication relay services.

“(4) *SUSPENSION OR REVOCATION OF CERTIFICATION.*—The Commission may suspend or revoke such certification if, after notice and opportunity for hearing, the Commission determines that such certification is no longer warranted. In a State whose program has been suspended or revoked, the Commission shall take such steps as may be necessary, consistent with this section, to ensure continuity of telecommunications relay services.

“(g) *COMPLAINT.*—

“(1) *REFERRAL OF COMPLAINT.*—If a complaint to the Commission alleges a violation of this section with respect to intrastate telecommunications relay services within a State and certification of the program of such State under subsection (f) is in effect, the Commission shall refer such complaint to such State.

“(2) *JURISDICTION OF COMMISSION.*—After referring a complaint to a State under paragraph (1), the Commission shall exercise jurisdiction over such complaint only if—

“(A) final action under such State program has not been taken on such complaint by such State—

“(i) within 180 days after the complaint is filed with such State; or

“(ii) within a shorter period as prescribed by the regulations of such State; or

“(B) the Commission determines that such State program is no longer qualified for certification under subsection (f).”.

* * * * *

“SEC. 711. CLOSED-CAPTIONING OF PUBLIC SERVICE ANNOUNCEMENTS.

“Any television public service announcement that is produced or funded in whole or in part by any agency or instrumentality of Federal Government shall include closed captioning of the verbal content of such announcement. A television broadcast station licensee—

“(1) shall not be required to supply closed captioning for any such announcement that fails to include it; and

“(2) shall not be liable for broadcasting any such announcement without transmitting a closed caption unless the licensee intentionally fails to transmit the closed caption that was included with the announcement.”.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. [42 U.S.C. 12201] CONSTRUCTION.

(a) **IN GENERAL.**—Except as otherwise provided in this Act, nothing in this Act shall be construed to apply a lesser standard than the standards applied under title V of the Rehabilitation Act of 1973 (29 U.S.C. 790 et seq.) or the regulations issued by Federal agencies pursuant to such title.

(b) **RELATIONSHIP TO OTHER LAWS.**—Nothing in this Act shall be construed to invalidate or limit the remedies, rights, and procedures of any Federal law or law of any State or political subdivision of any State or jurisdiction that provides greater or equal protection for the rights of individuals with disabilities than are afforded by this Act. Nothing in this Act shall be construed to preclude the prohibition of, or the imposition of restrictions on, smoking in places of employment covered by title I, in transportation covered by title II or III, or in places of public accommodation covered by title III.

(c) **INSURANCE.**—Titles I through IV of this Act shall not be construed to prohibit or restrict—

(1) an insurer, hospital or medical service company, health maintenance organization, or any agent, or entity that administers benefit plans, or similar organizations from underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(2) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that are based on underwriting risks, classifying risks, or administering such risks that are based on or not inconsistent with State law; or

(3) a person or organization covered by this Act from establishing, sponsoring, observing or administering the terms of a bona fide benefit plan that is not subject to State laws that regulate insurance.

Paragraphs (1), (2), and (3) shall not be used as a subterfuge to evade the purposes of title¹ I and III.

(d) **ACCOMMODATIONS AND SERVICES.**—Nothing in this Act shall be construed to require an individual with a disability to accept an accommodation, aid, service, opportunity, or benefit which such individual chooses not to accept.

SEC. 502. [42 U.S.C. 12202] STATE IMMUNITY.

A State shall not be immune under the eleventh amendment to the Constitution of the United States from an action in² Federal or State court of competent jurisdiction for a violation of this Act. In any action against a State for a violation of the requirements of this Act, remedies (including remedies both at law and in equity) are available for such a violation to the same extent as such remedies are available for such a violation in an action against any public or private entity other than a State.

¹So in law. Probably should be “titles”.

²So in law. Probably should be “in a”.

SEC. 503. [42 U.S.C. 12203] PROHIBITION AGAINST RETALIATION AND COERCION.

(a) **RETALIATION.**—No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by this Act or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this Act.

(b) **INTERFERENCE, COERCION, OR INTIMIDATION.**—It shall be unlawful to coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, or on account of his or her having aided or encouraged any other individual in the exercise or enjoyment of, any right granted or protected by this Act.

(c) **REMEDIES AND PROCEDURES.**—The remedies and procedures available under sections 107, 203, and 308 of this Act shall be available to aggrieved persons for violations of subsections (a) and (b), with respect to title I, title II and title III, respectively.

SEC. 504. [42 U.S.C. 12204] REGULATIONS BY THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) **ISSUANCE OF GUIDELINES.**—Not later than 9 months after the date of enactment of this Act, the Architectural and Transportation Barriers Compliance Board shall issue minimum guidelines that shall supplement the existing Minimum Guidelines and Requirements for Accessible Design for purposes of titles II and III of this Act.

(b) **CONTENTS OF GUIDELINES.**—The supplemental guidelines issued under subsection (a) shall establish additional requirements, consistent with this Act, to ensure that buildings, facilities, rail passenger cars, and vehicles are accessible, in terms of architecture and design, transportation, and communication, to individuals with disabilities.

(c) **QUALIFIED HISTORIC PROPERTIES.**—

(1) **IN GENERAL.**—The supplemental guidelines issued under subsection (a) shall include procedures and requirements for alterations that will threaten or destroy the historic significance of qualified historic buildings and facilities as defined in 4.1.7(1)(a) of the Uniform Federal Accessibility Standards.

(2) **SITES ELIGIBLE FOR LISTING IN NATIONAL REGISTER.**—With respect to alterations of buildings or facilities that are eligible for listing in the National Register of Historic Places under the National Historic Preservation Act (16 U.S.C. 470 et seq.), the guidelines described in paragraph (1) shall, at a minimum, maintain the procedures and requirements established in 4.1.7 (1) and (2) of the Uniform Federal Accessibility Standards.

(3) **OTHER SITES.**—With respect to alterations of buildings or facilities designated as historic under State or local law, the guidelines described in paragraph (1) shall establish procedures equivalent to those established by 4.1.7(1) (b) and (c) of the Uniform Federal Accessibility Standards, and shall require, at a minimum, compliance with the requirements established in 4.1.7(2) of such standards.

SEC. 505. [42 U.S.C. 12205] ATTORNEY'S FEES.

In any action or administrative proceeding commenced pursuant to this Act, the court or agency, in its discretion, may allow the

prevailing party, other than the United States, a reasonable attorney's fee, including litigation expenses, and costs, and the United States shall be liable for the foregoing the same as a private individual.

SEC. 506. [42 U.S.C. 12206] TECHNICAL ASSISTANCE.

(a) **PLAN FOR ASSISTANCE.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Attorney General, in consultation with the Chair of the Equal Employment Opportunity Commission, the Secretary of Transportation, the Chair of the Architectural and Transportation Barriers Compliance Board, and the Chairman of the Federal Communications Commission, shall develop a plan to assist entities covered under this Act, and other Federal agencies, in understanding the responsibility of such entities and agencies under this Act.

(2) **PUBLICATION OF PLAN.**—The Attorney General shall publish the plan referred to in paragraph (1) for public comment in accordance with subchapter II of chapter 5 of title 5, United States Code (commonly known as the Administrative Procedure Act).

(b) **AGENCY AND PUBLIC ASSISTANCE.**—The Attorney General may obtain the assistance of other Federal agencies in carrying out subsection (a), including the National Council on Disability, the President's Committee on Employment of People with Disabilities, the Small Business Administration, and the Department of Commerce.

(c) **IMPLEMENTATION.**—

(1) **RENDERING ASSISTANCE.**—Each Federal agency that has responsibility under paragraph (2) for implementing this Act may render technical assistance to individuals and institutions that have rights or duties under the respective title or titles for which such agency has responsibility.

(2) **IMPLEMENTATION OF TITLES.**—

(A) **TITLE I.**—The Equal Employment Opportunity Commission and the Attorney General shall implement the plan for assistance developed under subsection (a), for title I.

(B) **TITLE II.**—

(i) **SUBTITLE A.**—The Attorney General shall implement such plan for assistance for subtitle A of title II.

(ii) **SUBTITLE B.**—The Secretary of Transportation shall implement such plan for assistance for subtitle B of title II.

(C) **TITLE III.**—The Attorney General, in coordination with the Secretary of Transportation and the Chair of the Architectural Transportation Barriers Compliance Board, shall implement such plan for assistance for title III, except for section 304, the plan for assistance for which shall be implemented by the Secretary of Transportation.

(D) **TITLE IV.**—The Chairman of the Federal Communications Commission, in coordination with the Attorney General, shall implement such plan for assistance for title IV.

(3) TECHNICAL ASSISTANCE MANUALS.—Each Federal agency that has responsibility under paragraph (2) for implementing this Act shall, as part of its implementation responsibilities, ensure the availability and provision of appropriate technical assistance manuals to individuals or entities with rights or duties under this Act no later than six months after applicable final regulations are published under titles I, II, III, and IV.

(d) GRANTS AND CONTRACTS.—

(1) IN GENERAL.—Each Federal agency that has responsibility under subsection (c)(2) for implementing this Act may make grants or award contracts to effectuate the purposes of this section, subject to the availability of appropriations. Such grants and contracts may be awarded to individuals, institutions not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual (including educational institutions), and associations representing individuals who have rights or duties under this Act. Contracts may be awarded to entities organized for profit, but such entities may not be the recipients or¹ grants described in this paragraph.

(2) DISSEMINATION OF INFORMATION.—Such grants and contracts, among other uses, may be designed to ensure wide dissemination of information about the rights and duties established by this Act and to provide information and technical assistance about techniques for effective compliance with this Act.

(e) FAILURE TO RECEIVE ASSISTANCE.—An employer, public accommodation, or other entity covered under this Act shall not be excused from compliance with the requirements of this Act because of any failure to receive technical assistance under this section, including any failure in the development or dissemination of any technical assistance manual authorized by this section.

SEC. 507. [42 U.S.C. 12207] FEDERAL WILDERNESS AREAS.

(a) STUDY.—The National Council on Disability shall conduct a study and report on the effect that wilderness designations and wilderness land management practices have on the ability of individuals with disabilities to use and enjoy the National Wilderness Preservation System as established under the Wilderness Act (16 U.S.C. 1131 et seq.).

(b) SUBMISSION OF REPORT.—Not later than 1 year after the enactment of this Act, the National Council on Disability shall submit the report required under subsection (a) to Congress.

(c) SPECIFIC WILDERNESS ACCESS.—

(1) IN GENERAL.—Congress reaffirms that nothing in the Wilderness Act is to be construed as prohibiting the use of a wheelchair in a wilderness area by an individual whose disability requires use of a wheelchair, and consistent with the Wilderness Act no agency is required to provide any form of special treatment or accommodation, or to construct any facilities or modify any conditions of lands within a wilderness area in order to facilitate such use.

¹ So in law. Probably should be "of".

(2) DEFINITION.—For purposes of paragraph (1), the term “wheelchair” means a device designed solely for use by a mobility-impaired person for locomotion, that is suitable for use in an indoor pedestrian area.

SEC. 508. [42 U.S.C. 12208] TRANSVESTITES.

For the purposes of this Act, the term “disabled” or “disability” shall not apply to an individual solely because that individual is a transvestite.

SEC. 509. [42 U.S.C. 12209] INSTRUMENTALITIES OF THE CONGRESS¹

The General Accounting Office, the Government Printing Office, and the Library of Congress shall be covered as follows:

(1) IN GENERAL.—The rights and protections under this Act shall, subject to paragraph (2), apply with respect to the conduct of each instrumentality of the Congress.

(2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY INSTRUMENTALITIES.—The chief official of each instrumentality of the Congress shall establish remedies and procedures to be utilized with respect to the rights and protections provided pursuant to paragraph (1).

(3) REPORT TO CONGRESS.—The chief official of each instrumentality of the Congress shall, after establishing remedies and procedures for purposes of paragraph (2), submit to the Congress a report describing the remedies and procedures.

(4) DEFINITION OF INSTRUMENTALITIES.—For purposes of this section, instrumentalities² of the Congress include the following:³ the General Accounting Office, the Government Printing Office, and the Library of Congress,³

(5) ENFORCEMENT OF EMPLOYMENT RIGHTS.—The remedies and procedures set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) shall be available to any employee of an instrumentality of the Congress who alleges a violation of the rights and protections under sections 102 through 104 of this Act that are made applicable by this section, except that the authorities of the Equal Employment Opportunity Commission shall be exercised by the chief official of the instrumentality of the Congress.

(6)⁴ENFORCEMENT OF RIGHTS TO PUBLIC SERVICES AND ACCOMMODATIONS.—The remedies and procedures set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16) shall be available to any qualified person with a disability who is a visitor, guest, or patron of an instrumentality of Congress and who alleges a violation of the rights and protections under sections 201 through 230 or section 302 or 303 of this

¹Section 201(c)(3)(F) of Public Law 104–1 (109 Stat. 8) provides that section 509 will be amended “by amending the title of the section to read ‘INSTRUMENTALITIES OF THE CONGRESS’.” Note the lack of a period within the single quotations. Note further that such Public Law does not provide for a conforming amendment to the table of contents of this Act.

²Section 201(c)(3)(D) of Public Law 104–1 (109 Stat. 8) provides in part that paragraph (4) will be amended by striking “the instrumentalities of the Congress include” and inserting “the term ‘instrumentality of the Congress’ means”. The amendment cannot be executed because the term to be struck does not appear in paragraph (4). (Compare “instrumentalities” with “the instrumentalities”.)

³The superfluous commas will be so in law. See the amendments to be made by section 201(c)(3)(D) of Public Law 104–1 (109 Stat. 8).

⁴The amendment to be made by section 210(g) of Public Law 104–1 (109 Stat. 16) will add paragraph (6), but does not specify the placement within section 509 of the paragraph. The paragraph is placed after paragraph (5) as the probable intent of the Congress.

Act that are made applicable by this section, except that the authorities of the Equal Employment Opportunity Commission shall be exercised by the chief official of the instrumentality of the Congress.

(7) CONSTRUCTION.—Nothing in this section shall alter the enforcement procedures for individuals with disabilities provided in the General Accounting Office Personnel Act of 1980 and regulations promulgated pursuant to that Act.

SEC. 510. [42 U.S.C. 12210] ILLEGAL USE OF DRUGS.

(a) IN GENERAL.—For purposes of this Act, the term “individual with a disability” does not include an individual who is currently engaging in the illegal use of drugs, when the covered entity acts on the basis of such use.

(b) RULES OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to exclude as an individual with a disability an individual who—

(1) has successfully completed a supervised drug rehabilitation program and is no longer engaging in the illegal use of drugs, or has otherwise been rehabilitated successfully and is no longer engaging in such use;

(2) is participating in a supervised rehabilitation program and is no longer engaging in such use; or

(3) is erroneously regarded as engaging in such use, but is not engaging in such use;

except that it shall not be a violation of this Act for a covered entity to adopt or administer reasonable policies or procedures, including but not limited to drug testing, designed to ensure that an individual described in paragraph (1) or (2) is no longer engaging in the illegal use of drugs; however, nothing in this section shall be construed to encourage, prohibit, restrict, or authorize the conducting of testing for the illegal use of drugs.

(c) HEALTH AND OTHER SERVICES.—Notwithstanding subsection (a) and section 511(b)(3), an individual shall not be denied health services, or services provided in connection with drug rehabilitation, on the basis of the current illegal use of drugs if the individual is otherwise entitled to such services.

(d) DEFINITION OF ILLEGAL USE OF DRUGS.—

(1) IN GENERAL.—The term “illegal use of drugs” means the use of drugs, the possession or distribution of which is unlawful under the Controlled Substances Act (21 U.S.C. 812). Such term does not include the use of a drug taken under supervision by a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(2) DRUGS.—The term “drug” means a controlled substance, as defined in schedules I through V of section 202 of the Controlled Substances Act.

SEC. 511. [42 U.S.C. 12211] DEFINITIONS.

(a) HOMOSEXUALITY AND BISEXUALITY.—For purposes of the definition of “disability” in section 3(2), homosexuality and bisexuality are not impairments and as such are not disabilities under this Act.

(b) CERTAIN CONDITIONS.—Under this Act, the term “disability” shall not include—

- (1) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;
- (2) compulsive gambling, kleptomania, or pyromania; or
- (3) psychoactive substance use disorders resulting from current illegal use of drugs.

SEC. 512. AMENDMENTS TO THE REHABILITATION ACT.

Note Regarding Section 512: This section (104 Stat. 376) amended section 7 of the Rehabilitation Act of 1973 (in paragraphs (8) and (22)), which relates to definitions.

SEC. 513. [42 U.S.C. 12213] ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under this Act.

SEC. 514. [42 U.S.C. 12213] SEVERABILITY.

Should any provision in this Act be found to be unconstitutional by a court of law, such provision shall be severed from the remainder of the Act, and such action shall not affect the enforceability of the remaining provisions of the Act.

EDUCATION OF THE DEAF ACT OF 1986

AN ACT To authorize quality educational programs for individuals who are deaf, to foster improved educational programs for individuals who are deaf throughout the United States, to reenact and codify certain provisions of law relating to the education of individuals who are deaf, and for other purposes.

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 “Education of the Deaf Act of 1986”.

(20 U.S.C. 4301 note)

TITLE I—GALLAUDET UNIVERSITY; NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

PART A—GALLAUDET UNIVERSITY

SEC. 101. CONTINUATION OF GALLAUDET COLLEGE AS GALLAUDET UNIVERSITY.

(a) GALLAUDET UNIVERSITY.—The Gallaudet College created by an Act entitled “An Act to amend the charter of the Columbia Institution for the Deaf, change its name, define its corporate powers, and provide for its organization and administration, and for other purposes”, approved June 18, 1954, is continued as a body corporate under the name of Gallaudet University. Hereafter, Gallaudet College shall be known as Gallaudet University and have perpetual succession and shall have the powers and be subject to the limitations contained in this Act.

(b) PURPOSE.—The purpose of Gallaudet University shall be to provide education and training to individuals who are deaf and otherwise to further the education of individuals who are deaf.

(20 U.S.C. 4301)

SEC. 102. PROPERTY RIGHTS.

(a) PROPERTY RIGHTS DESCRIBED.—Gallaudet University is vested with all the property and the rights of property, and shall have and be entitled to use all authority, privileges, and possessions and all legal rights which it has, or which it had or exercised under any former name, including the right to sue and be sued and to own, acquire, sell, mortgage, or otherwise dispose of property it may own now or hereafter acquire. Gallaudet University shall also be subject to all liabilities and obligations now outstanding against the corporation under any former name.

(b) DISPOSAL OF REAL PROPERTY.—(1) With the approval of the Secretary, the Board of Trustees of Gallaudet University may convey fee simple title by deed, convey by quitclaim deed, mortgage, or otherwise dispose of any or all real property title to which is vested in Gallaudet University, Gallaudet College, the Columbia Institution for the Deaf, or any predecessor corporation.

(2) The proceeds of any such disposition shall be considered a part of the capital structure of the corporation, and may be used solely for the acquisition of real estate for the use of the corporation, for the construction, equipment, or improvement of buildings for such use, or for investment purposes, but, if invested, only the income from the investment may be used for current expenses of the corporation.

(20 U.S.C. 4302)

SEC. 103. BOARD OF TRUSTEES.

(a) COMPOSITION OF THE BOARD.—(1) Gallaudet University shall be under the direction and control of a Board of Trustees, composed of twenty-one members who shall include—

(A) three public members of whom (i) one shall be a United States Senator appointed by the President of the Senate, and (ii) two shall be Representatives appointed by the Speaker of the House of Representatives; and

(B) eighteen other members, all of whom shall be elected by the Board of Trustees and of whom one shall be elected pursuant to regulations of the Board of Trustees, on nomination by the Gallaudet University Alumni Association, for a term of three years.

(2) The members appointed from the Senate and House of Representatives shall be appointed for a term of two years at the beginning of each Congress, shall be eligible for reappointment, and shall serve until their successors are appointed.

(3) The Board of Trustees shall have the power to fill any vacancy in the membership of the Board except for public members. Nine trustees shall constitute a quorum to transact business. The Board of Trustees, by vote of a majority of its membership, is authorized to remove any member of their body (except the public members) who may refuse or neglect to discharge the duties of a trustee, or whose removal would, in the judgment of said majority, be to the interest and welfare of said corporation.

(b) POWERS OF THE BOARD.—The Board of Trustees is authorized to—

(1) make such rules, policies, regulations, and bylaws, not inconsistent with the Constitution and laws of the United States, as may be necessary for the good government of Gallaudet University, for the management of the property and funds of such corporation (including the construction of buildings and other facilities), and for the admission, instruction, care, and discharge of students;

(2) provide for the adoption of a corporate seal and for its use;

(3) fix the date of holding their annual and other meetings;

(4) appoint a president and establish policies, guidelines, and procedures related to the appointments, the salaries, and the dismissals of professors, instructors, and other employees of Gallaudet University, including the adoption of a policy of outreach and recruitment to employ and advance in employment qualified individuals with disabilities, particularly individuals who are deaf or hard of hearing;

(5) elect a chairperson and other officers and prescribe their duties and terms of office, and appoint an executive com-

mittee to consist of five members, and vest the committee with such of its powers during periods between meetings of the Board as the Board deems necessary;

(6) establish such schools, departments, and other units as the Board of Trustees deems necessary to carry out the purpose of Gallaudet University;

(7) confer such degrees and marks of honor as are conferred by colleges and universities generally, and issue such diplomas and certificates of graduation as, in its opinion, may be deemed advisable, and consistent with academic standards;

(8) subject to section 203, control expenditures of all moneys appropriated by Congress for the benefit of Gallaudet University; and

(9) control the expenditure and investment of any moneys or funds or property which Gallaudet University may have or may receive from sources other than appropriations by Congress.

(20 U.S.C. 4303)

SEC. 104. ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

(a) GENERAL AUTHORITY.—(1)(A) The Board of Trustees of Gallaudet University is authorized, in accordance with the agreement under section 105, to maintain and operate exemplary elementary and secondary education programs, projects, and activities for the primary purpose of developing, evaluating, and disseminating innovative curricula, instructional techniques and strategies, and materials that can be used in various educational environments serving individuals who are deaf or hard of hearing throughout the Nation.

(B) The elementary and secondary education programs described in subparagraph (A) shall serve students with a broad spectrum of needs, including students who are lower achieving academically, who come from non-English-speaking homes, who have secondary disabilities, who are members of minority groups, or who are from rural areas.

(C) The elementary and secondary education programs described in subparagraph (A) shall include—

(i) the Kendall Demonstration Elementary School, to provide day facilities for elementary education for students who are deaf from the age of onset of deafness to age fifteen, inclusive, but not beyond the eighth grade or its equivalent, to provide such students with the vocational, transitional, independent living, and related services they need to function independently, and to prepare such students for high school and other secondary study; and

(ii) the Model Secondary School for the Deaf, to provide day and residential facilities for secondary education for students who are deaf from grades nine through twelve, inclusive, to provide such students with the vocational, transitional, independent living, and related services they need to function independently, and to prepare such students for college, other post-secondary opportunities, or the workplace.

(2) The Model Secondary School for the Deaf may provide residential facilities for students enrolled in the school—

(A) who live beyond a reasonable commuting distance from the school; or

(B) for whom such residency is necessary for them to receive a free appropriate public education within the meaning of part B of the Individuals with Disabilities Education Act.

(b) ADMINISTRATIVE REQUIREMENTS.—(1) The elementary and secondary education programs shall—

(A) provide technical assistance and outreach throughout the Nation to meet the training and information needs of parents of infants, children, and youth who are deaf or hard of hearing;

(B) provide technical assistance and training to personnel for use in teaching (i) students who are deaf or hard of hearing, in various educational environments, and (ii) students who are deaf or hard of hearing with a broad spectrum of needs as described in subsection (a); and

(C) establish and publish priorities for research, development, and demonstration through a process that allows for public input.

(2) To the extent possible, the elementary and secondary education programs shall provide the services required under paragraph (1) in an equitable manner, based on the national distribution of students who are deaf or hard of hearing in educational environments as determined by the Secretary for purposes of section 618(b) of the Individuals with Disabilities Education Act. Such educational environments shall include—

(A) regular classes;

(B) resource rooms;

(C) separate classes;

(D) separate, public or private, nonresidential schools; and

(E) separate, public or private, residential schools and homebound or hospital environments.

(3) If a local educational agency, intermediate educational unit, or State educational agency refers a child to, or places a child in, one of the elementary or secondary education programs to meet its obligation to make available a free appropriate public education under part B of the Individuals with Disabilities Education Act, the agency or unit shall be responsible for ensuring that the special education and related services provided to the child by the education program are in accordance with part B of that Act and that the child is provided the rights and procedural safeguards under section 615 of that Act.

(4) If the parents or guardian places a child in one of the elementary or secondary education programs, the University shall—

(A) notify the appropriate local educational agency, intermediate educational unit, or State educational agency of that child's attendance in the program;

(B) work with local educational agencies, intermediate educational units, and State educational agencies, where appropriate, to ensure a smooth transfer of the child to and from that program; and

(C) provide the child a free appropriate public education in accordance with part B of the Individuals with Disabilities Education Act and procedural safeguards in accordance with the following provisions of section 615 of such Act:

(i) Subparagraphs (A), (C), (D), and (E) of paragraph

(1) of subsection (b), and paragraph (2) of such subsection.

(ii) Subsection (d), except the portion of paragraph (4) requiring that findings and decisions be transmitted to a State advisory panel.

(iii) Paragraphs (1) through (3) of subsection (e). Paragraph (3) of such subsection is not applicable to a decision by the University to refuse to admit or to dismiss a child, except that, before dismissing any child, the University shall give at least 60 days notice to the child's parents and to the local educational agency in which the child resides.

(iv) Subsection (f).

(20 U.S.C. 4304)

SEC. 105. AGREEMENT WITH GALLAUDET UNIVERSITY.

(a) **GENERAL AUTHORITY.**—The Secretary and Gallaudet University shall establish, within 1 year after enactment of the Education of the Deaf Act Amendments of 1992, a new agreement governing the operation and national mission activities, including construction and provision of equipment, of the elementary and secondary education programs at the University. The Secretary and the University shall periodically update the agreement as determined to be necessary by the Secretary or the University.

(b) **PROVISIONS OF AGREEMENT.**—The agreement shall—

(1) provide that Federal funds appropriated for the benefit of the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf will be used only for the purposes for which appropriated and in accordance with the applicable provisions of this Act and such agreement;

(2) provide that the University will make an annual report, to be part of the report required under section 204, to the Secretary on the operations and national mission activities of the elementary and secondary education programs, including such other information as the Secretary may consider necessary;

(3) provide that in the design and construction of any facilities, maximum attention will be given to innovative auditory and visual devices and installations appropriate for the educational functions of such facilities;

(4) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of the Kendall Demonstration Elementary School or the Model Secondary School for the Deaf will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5) commonly referred to as the Davis-Bacon Act; except that the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c); and

(5) include such other conditions as the Secretary or the University considers necessary to carry out the purposes of this part.

(20 U.S.C. 4305)

PART B—NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

SEC. 111. AUTHORITY.

For the purpose of providing a residential facility for postsecondary technical training and education for individuals who are deaf in order to prepare them for successful employment, the institution of higher education with which the Secretary has an agreement under this part is authorized to operate and maintain a National Technical Institute for the Deaf.

(20 U.S.C. 4331)

SEC. 112. AGREEMENT FOR THE NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.

(a) **GENERAL AUTHORITY.**—(1) The Secretary is authorized to establish or continue an agreement with an institution of higher education for the establishment and operation, including construction and equipment, of a National Technical Institute for the Deaf. The Secretary, in considering proposals from institutions of higher education to enter into an agreement under this part, shall give preference to institutions which are located in metropolitan industrial areas.

(2) The Secretary and the institution of higher education with which the Secretary has an agreement under this section shall, within 1 year after the enactment of the Education of the Deaf Act Amendments of 1992, assess the need for modification of the agreement. The Secretary and the institution of higher education with which the Secretary has an agreement under this section shall also periodically update the agreement as determined to be necessary by the Secretary or the institution.

(b) **PROVISIONS OF AGREEMENT.**—The agreement shall—

(1) provide that Federal funds appropriated for the benefit of NTID will be used only for the purposes for which appropriated and in accordance with the applicable provisions of this Act and the agreement made pursuant thereto;

(2) provide that the Board of Trustees or other governing body of the institution, subject to the approval of the Secretary, will appoint an advisory group to advise the Director of NTID in formulating and carrying out the basic policies governing its establishment and operation, which group shall include individuals who are professionally concerned with education and technical training at the postsecondary school level, persons who are professionally concerned with activities relating to education and training of individuals who are deaf, and members of the public familiar with the need for services provided by NTID;

(3) provide that the Board of Trustees or other governing body of the institution will prepare and submit to the Secretary, not later than June 1 following the fiscal year for which the report is submitted, an annual report containing an accounting of all indirect costs paid to the institution of higher education under the agreement with the Secretary, which accounting the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate, with such comments and recommendations as the Secretary may deem appropriate;

(4) include such other conditions as the Secretary deems necessary to carry out the purposes of this part;

(5) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for the benefit of NTID will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5) commonly referred to as the Davis-Bacon Act; except that the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c); and

(6) establish a policy of outreach and recruitment to employ and advance in employment qualified individuals with disabilities, particularly individuals who are deaf or hard of hearing.

(c) **LIMITATION.**—If, within twenty years after the completion of any construction (except minor remodeling or alteration) for which such funds have been paid—

(1) the facility ceases to be used for the purposes for which it was constructed or the agreement is terminated, unless the Secretary determines that there is good cause for releasing the institution from its obligation, or

(2) the institution ceases to be the owner of the facility, the United States shall be entitled to recover from the applicant or other owner of the facility an amount which has the same ratio with respect to the current market value of the facility as the amount of Federal funds expended for construction of such facility bears to the total cost of construction of the facility. The current market value of the facility shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.

(20 U.S.C. 4332)

TITLE II—GENERAL PROVISIONS

SEC. 201. DEFINITIONS.

As used in this Act—

(1) The term “international student” means an individual who—

(A) is not a citizen or national of, or lawfully admitted for permanent residence in, the United States;

(B) does not provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than temporary purposes with the intention of becoming a citizen of, or lawfully admitted for permanent residence in, the United States; and

(C) is not lawfully admitted for permanent residence in American Samoa, Guam, Palau (but only until the Compact of Free Association with Palau takes effect), the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, or the Virgin Islands.

(2) The term “construction” includes construction and initial equipment of new buildings, and expansion, remodeling, and alteration of existing buildings and equipment therein, including architect’s services, but excluding off-site improvements.

(3) The term “institution of higher education” means an educational institution in any State which (A) admits as regular students only individuals having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate; (B) is legally authorized within such State to provide a program of education beyond secondary education; (C) provides an educational program for which it awards a bachelor’s degree; (D) includes one or more professional or graduate schools; (E) is a public or nonprofit private institution; and (F) is accredited by a nationally recognized accrediting agency or association. For the purpose of subparagraph (F), the Secretary shall publish a list of nationally recognized accrediting agencies or associations which the Secretary determines to be reliable authority as to the quality of training offered.

(4) The term “Secretary” means the Secretary of Education.

(5) The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau (but only until the Compact of Free Association with Palau takes effect).

(6) The term “NTID” means the National Technical Institute for the Deaf.

(7) The term “University” means Gallaudet University.

(20 U.S.C. 4351)

SEC. 202. GIFTS.

The University and NTID are authorized to receive by gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of the University or NTID, or for the use, as appropriate, for any programs, departments, or other units as may be designated in the conveyance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will.

(20 U.S.C. 4352)

SEC. 203. AUDIT.

(a) **GENERAL ACCOUNTING OFFICE AUTHORITY.**—All financial transactions and accounts of the corporation or institution of higher education, as the case may be, in connection with the expenditure of any moneys appropriated by any law of the United States—

(1) for the benefit of Gallaudet University or for the construction of facilities for its use; or

(2) for the benefit of the National Technical Institute for the Deaf or for the construction of facilities for its use, shall be settled and adjusted in the General Accounting Office.

(b) **INDEPENDENT AUDIT.**—Gallaudet University shall have an annual independent financial audit made of the programs and activities of the University. The institution of higher education with which the Secretary has an agreement under section 112 shall

have an annual independent financial audit made of the programs and activities of such institution of higher education, including NTID, and containing specific schedules and analyses for all NTID funds, as determined by the Secretary.¹

(c) LIMITATIONS REGARDING EXPENDITURE OF FUNDS.—

(1) IN GENERAL.—No funds appropriated under this Act for Gallaudet University, including the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf, or for the National Technical Institute for the Deaf may be expended on the following:

(A) Alcoholic beverages.

(B) Goods or services for personal use.

(C) Housing and personal living expenses (but only to the extent such expenses are not required by written employment agreement).

(D) Lobbying, except that nothing in this subparagraph shall be construed to prohibit the University and NTID from educating the Congress, the Secretary, and others regarding programs, projects, and activities conducted at those institutions.

(E) Membership in country clubs and social or dining clubs and organizations.

(2) POLICIES.—

(A) Not later than 180 days after the date of the enactment of the Education of the Deaf Act Amendments of 1992, the University and NTID shall develop policies, to be applied uniformly, for the allowability of expenditures for each institution. These policies should reflect the unique nature of these institutions. The principles established by the Office of Management and Budget for costs of educational institutions may be used as guidance in developing these policies. General principles relating to allowability and reasonableness of all costs associated with the operations of the institutions shall be addressed. These policies shall be submitted to the Secretary for review and comments, and to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(B) Policies under subparagraph (A) shall include the following:

(i) Noninstitutional professional activities.

(ii) Fringe benefits.

(iii) Interest on loans.

(iv) Rental cost of buildings and equipment.

(v) Sabbatical leave.

(vi) Severance pay.

(vii) Travel.

(viii) Royalties and other costs for uses of patents.

(C) The Secretary is not authorized to add items to those specified in subparagraph (B).

(20 U.S.C. 4353)

¹Section 204(b) of Public Law 103-73 (107 Stat. 734) amended subsection (b) in its entirety, and the amendatory instructions did not provide closing quotes after “, as determined by the Secretary.” The amendment has been executed to effectuate the probable intent of the Congress.

SEC. 204. REPORTS.

The Board of Trustees of Gallaudet University and the Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 112 shall prepare and submit an annual report to the Secretary, and to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, not later than 100 days after the end of each fiscal year, which shall include the following:

(1) The number of students during the preceding academic year who enrolled and whether these were first-time enrollments, who graduated, who found employment, or who left without completing a program of study, reported under each of the programs of the University (elementary, secondary, preparatory, undergraduate, and graduate) and of NTID.

(2) For the preceding academic year, and to the extent possible, the following data on individuals who are deaf and from minority backgrounds and who are students (at all educational levels) or employees:

(A) The number of students enrolled full- and part-time.

(B) The number of these students who completed or graduated from each of the educational programs.

(C) The disposition of these students upon graduation/completion of programs at NTID and at the University and its elementary and secondary schools in comparison to students from non-minority backgrounds.

(D) The number of students needing and receiving support services (such as tutoring and counseling) at all educational levels.

(E) The number of recruitment activities by type and location for all educational levels.

(F) Employment openings/vacancies and grade level/type of job and number of these individuals that applied and that were hired.

(G) Strategies (such as parent groups and training classes in the development of individualized education programs) used by the elementary and secondary programs and the extension centers to reach and actively involve minority parents in the educational programs of their children who are deaf or hard of hearing and the number of parents who have been served as a result of these activities.

(3)(A) The annual audited financial statements and auditor's report of the University, as required under section 203, and (B) the annual audited financial statements and auditor's report of the institution of higher education with which the Secretary has an agreement under section 112, including specific schedules and analyses for all NTID funds, as required under section 203, and such supplementary schedules presenting financial information for NTID for the end of the Federal fiscal year as determined by the Secretary.

(4) For the preceding fiscal year, a statement showing the receipts of the University and NTID and from what Federal sources, and a statement showing the expenditures of each in-

stitution by function, activity, and administrative and academic unit.

(5) A statement showing the use of funds (both corpus and income) provided by the Federal Endowment Program under section 207.

(6) A statement showing how such Endowment Program funds are invested, what the gains or losses (both realized and unrealized) on such investments were for the most recent fiscal year, and what changes were made in investments during that year.

(7) Such additional information as the Secretary may consider necessary.

(20 U.S.C. 4354)

SEC. 205. MONITORING, EVALUATION, AND REPORTING.

(a) **ACTIVITIES.**—The Secretary shall conduct monitoring and evaluation activities of the education programs and activities and the administrative operations of the University (including the elementary, secondary, preparatory, undergraduate, and graduate programs) and of NTID. The Secretary may also conduct studies related to the provision of preschool, elementary, secondary, and postsecondary education and other related services to individuals who are deaf or hard of hearing. In carrying out the responsibilities described in this section, the Secretary is authorized to employ such consultants as may be necessary pursuant to section 3109 of title 5, United States Code.

(b) **REPORT.**—The Secretary, as part of the annual report required under section 426 of the Department of Education Organization Act, shall include a description of the monitoring and evaluation activities pursuant to subsection (a), together with such recommendations, including recommendations for legislation, as the Secretary may consider necessary.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 to carry out the monitoring and evaluation activities authorized under this section.

(20 U.S.C. 4355)

SEC. 206. LIAISON FOR EDUCATIONAL PROGRAMS.

(a) **DESIGNATION OF LIAISON.**—Not later than 30 days after the date of enactment of this Act, the Secretary shall designate an individual in the Office of Special Education and Rehabilitative Services of the Department of Education from among individuals who have experience in the education of individuals who are deaf to serve as liaison between the Department and Gallaudet University, the National Technical Institute for the Deaf, and other postsecondary educational programs for individuals who are deaf under the Individuals with Disabilities Education Act, the Rehabilitation Act of 1973, and other Federal or non-Federal agencies, institutions, or organizations involved with the education or rehabilitation of individuals who are deaf or hard of hearing.

(b) **DUTIES OF LIAISON.**—The individual serving as liaison for educational programs for individuals who are deaf or hard of hearing shall:

(1) provide information to institutions regarding the Department's efforts directly affecting the operation of such programs by such institutions;

(2) review research and other activities carried out by the University, NTID, and other Federal or non-Federal agencies, institutions, or organizations involved with the education or rehabilitation of individuals who are deaf or hard of hearing for the purpose of determining overlap and opportunities for coordination among such entities; and

(3) provide such support and assistance as such institutions may request and the Secretary considers appropriate.

(c) **AUTHORITY OF SECRETARY.**—Nothing in this section may be construed to affect the authority of the Secretary under this Act or any other Act with respect to Gallaudet University or the National Technical Institute for the Deaf.

(20 U.S.C. 4356)

SEC. 207. FEDERAL ENDOWMENT PROGRAMS FOR GALLAUDET UNIVERSITY AND THE NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.

(a) **ESTABLISHMENT OF PROGRAMS.**—

(1) The Secretary and the Board of Trustees of Gallaudet University are authorized to establish the Gallaudet University Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of the University. The Secretary and the Board of Trustees may enter into such agreements as may be necessary to carry out the purposes of this section with respect to the University.

(2) The Secretary and the Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 112 are authorized to establish the National Technical Institute for the Deaf Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of NTID. The Secretary and the Board or other governing body may enter into such agreements as may be necessary to carry out the purposes of this section with respect to NTID.

(b) **FEDERAL PAYMENTS.**—

(1) The Secretary shall, consistent with this section, make payments to the Federal endowment funds established under subsection (a) from amounts appropriated under subsection (h) for the fund involved.

(2) Subject to the availability of appropriations and the non-Federal matching requirements of paragraph (3), the Secretary shall make payments to each Federal endowment fund in amounts equal to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the institution involved).

(3) Effective for fiscal year 1993 and each succeeding fiscal year, for any fiscal year in which the sums contributed to the Federal endowment fund of the institution involved from non-Federal sources exceed \$1,000,000, the non-Federal contribution to the Federal endowment fund shall be \$2 for each Fed-

eral dollar provided in excess of \$1,000,000 (excluding transfers from other endowment funds of the institution involved).

(c) INVESTMENTS.—

(1) Except as provided in subsection (e), the University and NTID, respectively, shall invest its Federal endowment fund corpus and income in instruments and securities offered through one or more cooperative service organizations of operating educational organizations under section 501(f) of the Internal Revenue Code of 1986, or in low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State in which the institution involved is located.

(2) In managing the investment of its Federal endowment fund, the University or NTID shall exercise the judgment and care, under the prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

(3) Neither the University nor NTID may invest its Federal endowment fund corpus or income in real estate, or in instruments or securities issued by an organization in which an executive officer, a member of the Board of Trustees of the University or of the host institution, or a member of the advisory group established under section 112 is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws. Neither the University nor NTID may assign, hypothecate, encumber, or create a lien on the Federal endowment fund corpus without specific written authorization of the Secretary.

(d) WITHDRAWALS AND EXPENDITURES.—

(1) Except as provided in paragraph (3)(B), neither the University nor NTID may withdraw or expend any of the corpus of its Federal endowment fund.

(2)(A) The University and NTID, respectively, may withdraw or expend the income of its Federal endowment fund only for expenses necessary to the operation of that institution, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research.

(B) Neither the University nor NTID may withdraw or expend the income of its Federal endowment fund for any commercial purpose.

(C) Beginning on October 1, 1992, the University and NTID shall maintain records of the income generated from its respective Federal endowment fund for the prior fiscal year.

(3)(A) Except as provided in subparagraph (B), the University and NTID, respectively, may, on an annual basis, withdraw or expend not more than 50 percent of the income generated from its Federal endowment fund from the prior fiscal year.

(B) The Secretary may permit the University or NTID to withdraw or expend a portion of its Federal endowment fund corpus or more than 50 percent of the income generated from its Federal endowment fund from the prior fiscal year if the in-

stitution involved demonstrates, to the Secretary's satisfaction, that such withdrawal or expenditure is necessary because of—

- (i) a financial emergency, such as a pending insolvency or temporary liquidity problem;
- (ii) a life-threatening situation occasioned by natural disaster or arson; or
- (iii) another unusual occurrence or exigent circumstance.

(e) INVESTMENT AND EXPENDITURE FLEXIBILITY.—The corpus associated with a Federal payment (and its non-Federal match) made to the Federal endowment fund of the University or NTID shall not be subject to the investment limitations of subsection (c)(1) after 10 fiscal years following the fiscal year in which the funds are matched, and the income generated from such corpus after the tenth fiscal year described in this subsection shall not be subject to such investment limitations or to the withdrawal and expenditure limitations of subsection (d)(3).

(f) RECOVERY OF PAYMENTS.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if the University or NTID—

- (1) makes a withdrawal or expenditure of the corpus or income of its Federal endowment fund that is not consistent with this section;
- (2) fails to comply with the investment standards and limitations under this section; or
- (3) fails to account properly to the Secretary concerning the investment of or expenditures from the Federal endowment fund corpus or income.

(g) DEFINITIONS.—As used in this section:

(1) The term “corpus”, with respect to a Federal endowment fund under this section, means an amount equal to the Federal payments to such fund, amounts contributed to the fund from non-Federal sources, and appreciation from capital gains and reinvestment of income.

(2) The term “Federal endowment fund” means a fund, or a tax-exempt foundation, established and maintained pursuant to this section by the University or NTID, as the case may be, for the purpose of generating income for the support of the institution involved.

(3) The term “income”, with respect to a Federal endowment fund under this section, means an amount equal to the dividends and interest accruing from investments of the corpus of such fund.

(4) The term “institution involved” means the University or NTID, as the case may be.

(h) AUTHORIZATION OF APPROPRIATIONS.—

(1) In the case of the University, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 1993 through 1997.

(2) In the case of NTID, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 1993 through 1997.

(3) Amounts appropriated under paragraph (1) or (2) shall remain available until expended.

(i) **EFFECTIVE DATE.**—The provisions of this section shall take effect as if included in this Act as enacted on August 4, 1986.

(20 U.S.C. 4357)

SEC. 208. SCHOLARSHIP PROGRAM.

(a) **IN GENERAL.**—The Secretary may make grants to institutions of higher education that have teacher training programs in deaf education or special education for the purpose of providing scholarships to individuals who are deaf for careers in deaf education or special education. Such institutions shall give priority consideration in the selection of qualified recipients of the scholarships to individuals from underrepresented backgrounds, particularly minority individuals who are deaf and who are underrepresented in the teaching profession. Grants may be used by institutions to assist in covering the cost of courses of training or study for such individuals and for establishing and maintaining fellowships or traineeships with stipends and allowances as may be determined by the Secretary.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of making grants under subsection (a), there are authorized to be appropriated \$2,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.

(20 U.S.C. 4358)

SEC. 209. OVERSIGHT AND EFFECT OF AGREEMENTS.

(a) **OVERSIGHT ACTIVITIES.**—Nothing in this Act shall be construed to diminish the oversight activities of the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives with respect to any agreement entered into between the Secretary of Education and Gallaudet University, and the institution of higher education with which the Secretary has an agreement under part B of title I.

(b) **CONSTRUCTION OF AGREEMENTS.**—The agreements described in subsection (a) of this section shall continue in effect, to the extent that such agreements are not inconsistent with this Act.

(20 U.S.C. 4359)

SEC. 210. INTERNATIONAL STUDENTS.

(a) **ENROLLMENT.**—Effective with new admissions for academic year 1993–1994 and each succeeding academic year, the University (including preparatory, undergraduate, and graduate students) and NTID shall limit the enrollment of international students to approximately 10 percent of the total postsecondary student population enrolled respectively at the University or NTID.

(b) **TUITION SURCHARGE.**—Effective with new admissions, the tuition for postsecondary international students enrolled in the University (including preparatory, undergraduate, and graduate students) or NTID shall include a surcharge of 75 percent for the academic year 1993–1994 and 90 percent beginning with the academic year 1994–1995.

(c) **REDUCTION OF SURCHARGE.**—Beginning with the academic year 1993–1994, the University or NTID may reduce the surcharge under subsection (b) to 50 percent if—

- (1) a student described under subsection (b) is from a developing country;

(2) such student is unable to pay the tuition surcharge under subsection (b); and

(3) such student has made a good faith effort to secure aid through such student's government or other sources.

(d) DEFINITION.—For purposes of subsection (c), the term “developing country” means a country that has a 1990 per capita income not in excess of \$4,000 in 1990 United States dollars.

(20 U.S.C. 4359a)

SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

(a) GALLAUDET UNIVERSITY.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1997 to carry out the provisions of this Act, relating to—

- (1) Gallaudet University,
- (2) Kendall Demonstration Elementary School, and
- (3) the model secondary school for individuals who are deaf.

(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1997 to carry out the provisions of this Act relating to the National Technical Institute for the Deaf.

(20 U.S.C. 4360)

PART III—COMMUNITY SERVICE AND VOLUNTEER PROGRAMS

NATIONAL AND COMMUNITY SERVICE ACT OF 1990¹

AN ACT To enhance national and community service, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. [42 U.S.C. 12501 note] SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “National and Community Service Act of 1990”.

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

Sec. 1. Short title and table of contents.

Sec. 2. Findings and purpose.

TITLE I—NATIONAL AND COMMUNITY SERVICE STATE GRANT PROGRAM

Subtitle A—General Provisions

Sec. 101. Definitions.

Sec. 102. Authority to make State grants.

Subtitle B—School-Based and Community-Based Service-Learning Programs

PART I—SERVE-AMERICA PROGRAMS

SUBPART A—SCHOOL-BASED PROGRAMS FOR STUDENTS

Sec. 111. Authority to assist States and Indian tribes.

Sec. 111A. Authority to assist local applicants in nonparticipating States.

Sec. 111B. Authority to assist public or private nonprofit organizations.

Sec. 112. Grants and allotments.

Sec. 113. State or tribal applications.

Sec. 114. Local applications.

Sec. 115. Consideration of applications.

Sec. 115A. Participation of students and teachers from private schools.

Sec. 116. Federal, State, and local contributions.

Sec. 116A. Limitations on uses of funds.

Sec. 116B. Definitions.

SUBPART B—COMMUNITY-BASED SERVICE PROGRAMS FOR SCHOOL-AGE YOUTH

Sec. 117. Definitions.

Sec. 117A. General authority.

Sec. 117B. State applications.

Sec. 117C. Local applications.

Sec. 117D. Consideration of applications.

Sec. 117E. Federal, State, and local contributions.

Sec. 117F. Limitations on uses of funds.

SUBPART C—CLEARINGHOUSE

Sec. 118. Service-learning clearinghouse.

PART II—HIGHER EDUCATION INNOVATIVE PROGRAMS FOR COMMUNITY SERVICE

Sec. 119. Higher education innovative programs for community service.

¹Public Law 101-610.

Subtitle C—National Service Trust Program

PART I—INVESTMENT IN NATIONAL SERVICE

- Sec. 121. Authority to provide assistance and approved national service positions.
- Sec. 122. Types of national service programs eligible for program assistance.
- Sec. 123. Types of national service positions eligible for approval for national service educational awards.
- Sec. 124. Types of program assistance.
- Sec. 125. Training and technical assistance.
- Sec. 126. Other special assistance.

PART II—APPLICATION AND APPROVAL PROCESS

- Sec. 129. Provision of assistance and approved national service positions by competitive and other means.
- Sec. 130. Application for assistance and approved national service positions.
- Sec. 131. National service program assistance requirements.
- Sec. 132. Ineligible service categories.
- Sec. 133. Consideration of applications.

PART III—NATIONAL SERVICE PARTICIPANTS

- Sec. 137. Description of participants.
- Sec. 138. Selection of national service participants.
- Sec. 139. Terms of service.
- Sec. 140. Living allowances for national service participants.
- Sec. 141. National service educational awards.

Subtitle D—National Service Trust and Provision of National Service Educational Awards

- Sec. 145. Establishment of the National Service Trust.
- Sec. 146. Individuals eligible to receive a national service educational award from the Trust.
- Sec. 147. Determination of the amount of the national service educational award.
- Sec. 148. Disbursement of national service educational awards.

Subtitle E—Civilian Community Corps

- Sec. 151. Purpose.
- Sec. 152. Establishment of Civilian Community Corps Demonstration Program.
- Sec. 153. National service program.
- Sec. 154. Summer national service program.
- Sec. 155. Civilian Community Corps.
- Sec. 156. Training.
- Sec. 157. Service projects.
- Sec. 158. Authorized benefits for Corps members.
- Sec. 159. Administrative provisions.
- Sec. 160. Status of Corps members and Corps personnel under Federal law.
- Sec. 161. Contract and grant authority.
- Sec. 162. Responsibilities of other departments.
- Sec. 163. Advisory board.
- Sec. 164. Annual evaluation.
- Sec. 165. Funding limitation.
- Sec. 166. Definitions.

Subtitle F—Administrative Provisions

- Sec. 171. Family and medical leave.
- Sec. 172. Reports.
- Sec. 173. Supplementation.
- Sec. 174. Prohibition on use of funds.
- Sec. 175. Nondiscrimination.
- Sec. 176. Notice, hearing, and grievance procedures.
- Sec. 177. Nonduplication and nondisplacement.
- Sec. 178. State Commissions on National and Community Service.
- Sec. 179. Evaluation.
- Sec. 180. Engagement of participants.
- Sec. 181. Contingent extension.
- Sec. 182. Partnerships with schools.
- Sec. 183. Rights of access, examination, and copying.
- Sec. 184. Drug-free workplace requirements.

Subtitle G—Corporation for National and Community Service

- Sec. 191. Corporation for National and Community Service.
- Sec. 192. Board of Directors.
- Sec. 192A. Authorities and duties of the Board of Directors.
- Sec. 193. Chief Executive Officer.
- Sec. 193A. Authorities and duties of the Chief Executive Officer.
- Sec. 194. Officers.
- Sec. 195. Employees, consultants, and other personnel.
- Sec. 196. Administration.
- Sec. 196A. Corporation State offices.

Subtitle H—Investment for Quality and Innovation

- Sec. 198. Additional corporation activities to support national service.
- Sec. 198A. Clearinghouses.
- Sec. 198B. Presidential awards for service.
- Sec. 198C. Military installation conversion demonstration programs.
- Sec. 198D. Special demonstration project.

Subtitle I—American Conservation and Youth Corps

- Sec. 199. Short title.
- Sec. 199A. General authority.
- Sec. 199B. Limitation on purchase of capital equipment.
- Sec. 199C. State application.
- Sec. 199D. Focus of programs.
- Sec. 199E. Related programs.
- Sec. 199F. Public lands or Indian lands.
- Sec. 199G. Training and education services.
- Sec. 199H. Preference for certain projects.
- Sec. 199I. Age and citizenship criteria for enrollment.
- Sec. 199J. Use of volunteers.
- Sec. 199K. Living allowance.
- Sec. 199L. Joint programs.
- Sec. 199M. Federal and State employee status.

TITLE II—MODIFICATIONS OF EXISTING PROGRAMS

Subtitle A—Publication

- Sec. 201. Information for students.
- Sec. 202. Exit counseling for borrowers.
- Sec. 203. Department information on deferments and cancellations.
- Sec. 204. Data on deferments and cancellations.

Subtitle B—Youthbuild Projects

- Sec. 211. Youthbuild projects.

Subtitle C—Amendments to Student Literacy Corps

- Sec. 221. Amendments to Student Literacy Corps.

TITLE III—POINTS OF LIGHT FOUNDATION

- Sec. 301. Short title.
- Sec. 302. Findings and purposes.
- Sec. 303. Authority.
- Sec. 304. Grants to the Foundation.
- Sec. 305. Eligibility of the Foundation for grants.

[TITLE IV—REPEALED BY PUBLIC LAW 104-210]

TITLE V—AUTHORIZATION OF APPROPRIATIONS

- Sec. 501. Authorization of appropriations.

TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 601. Amtrak waste disposal.
- Sec. 602. Exchange program with countries in transition from totalitarianism to Democracy.

SEC. 2. [42 U.S.C. 12501] FINDINGS AND PURPOSE.

- (a) **FINDINGS.**—The Congress finds the following:

(1) Throughout the United States, there are pressing unmet human, educational, environmental, and public safety needs.

(2) Americans desire to affirm common responsibilities and shared values, and join together in positive experiences, that transcend race, religion, gender, age, disability, region, income, and education.

(3) The rising costs of postsecondary education are putting higher education out of reach for an increasing number of citizens.

(4) Americans of all ages can improve their communities and become better citizens through service to the United States.

(5) Nonprofit organizations, local governments, States, and the Federal Government are already supporting a wide variety of national service programs that deliver needed services in a cost-effective manner.

(6) Residents of low-income communities, especially youth and young adults, can be empowered through their service, and can help provide future community leadership.

(b) PURPOSE.—It is the purpose of this Act to—

(1) meet the unmet human, educational, environmental, and public safety needs of the United States, without displacing existing workers;

(2) renew the ethic of civic responsibility and the spirit of community throughout the United States;

(3) expand educational opportunity by rewarding individuals who participate in national service with an increased ability to pursue higher education or job training;

(4) encourage citizens of the United States, regardless of age, income, or disability, to engage in full-time or part-time national service;

(5) reinvent government to eliminate duplication, support locally established initiatives, require measurable goals for performance, and offer flexibility in meeting those goals;

(6) expand and strengthen existing service programs with demonstrated experience in providing structured service opportunities with visible benefits to the participants and community;

(7) build on the existing organizational service infrastructure of Federal, State, and local programs and agencies to expand full-time and part-time service opportunities for all citizens; and

(8) provide tangible benefits to the communities in which national service is performed.

TITLE I—NATIONAL AND COMMUNITY SERVICE STATE GRANT PROGRAM

Subtitle A—General Provisions

SEC. 101. [42 U.S.C. 12511] DEFINITIONS.

For purposes of this title:

(1) **ADULT VOLUNTEER.**—The term “adult volunteer” means an individual, such as an older adult, an individual with a disability, a parent, or an employee of a business or public or private nonprofit organization, who—

(A) works without financial remuneration in an educational institution to assist students or out-of-school youth; and

(B) is beyond the age of compulsory school attendance in the State in which the educational institution is located.

(2) **APPROVED NATIONAL SERVICE POSITION.**—The term “approved national service position” means a national service position for which the Corporation has approved the provision of a national service educational award described in section 147 as one of the benefits to be provided for successful service in the position.

(3) **CARRY OUT.**—The term “carry out”, when used in connection with a national service program described in section 122, means the planning, establishment, operation, expansion, or replication of the program.

(4) **CHIEF EXECUTIVE OFFICER.**—The term “Chief Executive Officer”, except when used to refer to the chief executive officer of a State, means the Chief Executive Officer of the Corporation appointed under section 193.

(5) **COMMUNITY-BASED AGENCY.**—The term “community-based agency” means a private nonprofit organization (including a church or other religious entity) that—

(A) is representative of a community or a significant segment of a community; and

(B) is engaged in meeting human, educational, environmental, or public safety community needs.

(6) **CORPORATION.**—The term “Corporation” means the Corporation for National and Community Service established under section 191.

(7) **ECONOMICALLY DISADVANTAGED.**—The term “economically disadvantaged” means, with respect to an individual, an individual who is determined by the Chief Executive Officer to be low-income according to the latest available data from the Department of Commerce.

(8) **ELEMENTARY SCHOOL.**—The term “elementary school” has the same meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965.

(9) **INDIAN.**—The term “Indian” means a person who is a member of an Indian tribe, or is a “Native”, as defined in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(10) **INDIAN LANDS.**—The term “Indian lands” means any real property owned by an Indian tribe, any real property held in trust by the United States for an Indian or Indian tribe, and any real property held by an Indian or Indian tribe that is subject to restrictions on alienation imposed by the United States.

(11) **INDIAN TRIBE.**—The term “Indian tribe” means—

(A) an Indian tribe, band, nation, or other organized group or community, including—

(i) any Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C.

1602(c)), whether organized traditionally or pursuant to the Act of June 18, 1934 (commonly known as the "Indian Reorganization Act"; 48 Stat. 984, chapter 576; 25 U.S.C 461 et seq.); and

(ii) any Regional Corporation or Village Corporation, as defined in subsection (g) or (j), respectively, of section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602 (g) or (j)),

that is recognized as eligible for the special programs and services provided by the United States under Federal law to Indians because of their status as Indians; and

(B) any tribal organization controlled, sanctioned, or chartered by an entity described in subparagraph (A).

(12) INDIVIDUAL WITH A DISABILITY.—Except as provided in section 175(a), the term "individual with a disability" has the meaning given the term in section 7(20)(B) of the Rehabilitation Act of 1973.

(13) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the same meaning given such term in section 101(a) of the Higher Education Act of 1965.

(14) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the same meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965.

(15) NATIONAL SERVICE LAWS.—The term "national service laws" means this Act and the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

(16) OUT-OF-SCHOOL YOUTH.—The term "out-of-school youth" means an individual who—

(A) has not attained the age of 27;

(B) has not completed college or the equivalent thereof; and

(C) is not enrolled in an elementary or secondary school or institution of higher education.

(17) PARTICIPANT.—

(A) IN GENERAL.—The term "participant" means—

(i) for purposes of subtitle C, an individual in an approved national service position; and

(ii) for purposes of any other provision of this Act, an individual enrolled in a program that receives assistance under this title.

(B) RULE.—A participant shall not be considered to be an employee of the program in which the participant is enrolled.

(18) PARTNERSHIP PROGRAM.—The term "partnership program" means a program through which an adult volunteer, a public or private nonprofit organization, an institution of higher education, or a business assists a local educational agency.

(19) PROGRAM.—The term "program", unless the context otherwise requires, and except when used as part of the term "academic program", means a program described in section 111(a) (other than a program referred to in paragraph (3)(B) of such section), 117A(a), 119(b)(1), or 122(a), or in paragraph (1) or (2) of section 152(b), or an activity that could be funded under section 198, 198C, or 198D.

(20) **PROJECT.**—The term “project” means an activity, carried out through a program that receives assistance under this title, that results in a specific identifiable service or improvement that otherwise would not be done with existing funds, and that does not duplicate the routine services or functions of the employer to whom participants are assigned.

(21) **SCHOOL-AGE YOUTH.**—The term “school-age youth” means—

(A) individuals between the ages of 5 and 17, inclusive; and

(B) children with disabilities, as defined in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)), who receive services under part B of such Act.

(22) **SECONDARY SCHOOL.**—The term “secondary school” has the same meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965.

(23) **SERVICE-LEARNING.**—The term “service-learning” means a method—

(A) under which students or participants learn and develop through active participation in thoughtfully organized service that—

(i) is conducted in and meets the needs of a community;

(ii) is coordinated with an elementary school, secondary school, institution of higher education, or community service program, and with the community; and

(iii) helps foster civic responsibility; and

(B) that—

(i) is integrated into and enhances the academic curriculum of the students, or the educational components of the community service program in which the participants are enrolled; and

(ii) provides structured time for the students or participants to reflect on the service experience.

(24) **SERVICE-LEARNING COORDINATOR.**—The term “service-learning coordinator” means an individual who provides services as described in subsection (a)(3) or (b) of section 111.

(25) **SERVICE SPONSOR.**—The term “service sponsor” means an organization, or other entity, that has been selected to provide a placement for a participant.

(26) **STATE.**—The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. The term also includes Palau, until such time as the Compact of Free Association is ratified.

(27) **STATE COMMISSION.**—The term “State Commission” means a State Commission on National and Community Service maintained by a State pursuant to section 178. Except when used in section 178, the term includes an alternative administrative entity for a State approved by the Corporation under such section to act in lieu of a State Commission.

(28) **STATE EDUCATIONAL AGENCY.**—The term “State educational agency” has the same meaning given such term in sec-

tion 14101 of the Elementary and Secondary Education Act of 1965.

(29) STUDENT.—The term “student” means an individual who is enrolled in an elementary or secondary school or institution of higher education on a full- or part-time basis.

Subtitle B—School-Based and Community-Based Service-Learning Programs

PART I—SERVE-AMERICA PROGRAMS

Subpart A—School-Based Programs for Students

SEC. 111. [42 U.S.C. 12521] AUTHORITY TO ASSIST STATES AND INDIAN TRIBES.

(a) USE OF FUNDS.—The Corporation, in consultation with the Secretary of Education, may make grants under section 112(b)(1), and allotments under subsections (a) and (b)(2) of section 112, to States (through State educational agencies), and to Indian tribes, to pay for the Federal share of—

(1) planning and building the capacity of the States or Indian tribes (which may be accomplished through grants or contracts with qualified organizations) to implement school-based service-learning programs, including—

(A) providing training for teachers, supervisors, personnel from community-based agencies (particularly with regard to the utilization of participants), and trainers, to be conducted by qualified individuals or organizations that have experience with service-learning;

(B) developing service-learning curricula to be integrated into academic programs, including the age-appropriate learning component described in section 114(d)(2);

(C) forming local partnerships described in paragraph (2) or (4) to develop school-based service-learning programs in accordance with this subpart;

(D) devising appropriate methods for research and evaluation of the educational value of service-learning and the effect of service-learning activities on communities; and

(E) establishing effective outreach and dissemination of information to ensure the broadest possible involvement of community-based agencies with demonstrated effectiveness in working with school-age youth in their communities;

(2) implementing, operating, or expanding school-based service-learning programs, which may include paying for the cost of the recruitment, training, supervision, placement, salaries, and benefits of service-learning coordinators, through State distribution of Federal funds made available under this subpart to projects operated by local partnerships among—

(A) local educational agencies; and

(B) one or more community partners that—

(i) shall include a public or private nonprofit organization that—

- (I) has a demonstrated expertise in the provision of services to meet unmet human, educational, environmental, or public safety needs;
 - (II) was in existence at least 1 year before the date on which the organization submitted an application under section 114; and
 - (III) will make projects available for participants, who shall be students; and
- (ii) may include a private for-profit business or private elementary or secondary school;
- (3) planning of school-based service-learning programs, through State distribution of Federal funds made available under this subpart to local educational agencies, which planning may include paying for the cost of—
 - (A) the salaries and benefits of service-learning coordinators; or
 - (B) the recruitment, training, supervision, and placement of service-learning coordinators who are participants in a program under subtitle C or receive a national service educational award under subtitle D, who will identify the community partners described in paragraph (2)(B) and assist in the design and implementation of a program described in paragraph (2); and
 - (4) implementing, operating, or expanding school-based service-learning programs involving adult volunteers to utilize service-learning to improve the education of students, through State distribution of Federal funds made available under this part to local partnerships among—
 - (A) local educational agencies; and
 - (B) one or more—
 - (i) public or private nonprofit organizations;
 - (ii) other educational agencies; or
 - (iii) private for-profit businesses,
- that coordinate and operate projects for participants, who shall be students.
- (b) DUTIES OF SERVICE-LEARNING COORDINATOR.—A service-learning coordinator referred to in paragraph (2) or (3) of subsection (a) shall provide services to a local educational agency by—
 - (1) providing technical assistance and information to, and facilitating the training of, teachers who want to use service-learning in their classrooms;
 - (2) assisting local partnerships described in subsection (a) in the planning, development, and execution of service-learning projects; and
 - (3) carrying out such other duties as the local educational agency may determine to be appropriate.
 - (c) RELATED EXPENSES.—A partnership, local educational agency, or other qualified organization that receives financial assistance under this subpart may, in carrying out the activities described in subsection (a), use such assistance to pay for the Federal share of reasonable costs related to the supervision of participants, program administration, transportation, insurance, and evaluations, and for other reasonable expenses related to the activities.

SEC. 111A. [42 U.S.C. 12522] AUTHORITY TO ASSIST LOCAL APPLICANTS IN NONPARTICIPATING STATES.

In any fiscal year in which a State does not submit an application under section 113, for an allotment under subsection (a) or (b)(2) of section 112, that meets the requirements of section 113 and such other requirements as the Chief Executive Officer may determine to be appropriate, the Corporation may use the allotment of that State to make direct grants to pay for the Federal share of the cost of—

(1) carrying out the activities described in paragraph (2) or (4) of section 111(a), to a local partnership described in such paragraph; or

(2) carrying out the activities described in paragraph (3) of such section, to an agency described in such paragraph, that is located in the State.

SEC. 111B. [42 U.S.C. 12523] AUTHORITY TO ASSIST PUBLIC OR PRIVATE NONPROFIT ORGANIZATIONS.

(a) **IN GENERAL.**—The Corporation may make grants under section 112(b)(1) to public or private nonprofit organizations that—

(1) have experience with service-learning;

(2) were in existence at least 1 year before the date on which the organization submitted an application under section 114(a); and

(3) meet such other criteria as the Chief Executive Officer may establish.

(b) **USE OF FUNDS.**—Such organizations may use grants made under subsection (a) to make grants to partnerships described in paragraph (2) or (4) of section 111(a) to implement, operate, or expand school-based service-learning programs as described in such section and provide technical assistance and training to appropriate persons.

SEC. 112. [42 U.S.C. 12524] GRANTS AND ALLOTMENTS.

(a) **INDIAN TRIBES AND TERRITORIES.**—Of the amounts appropriated to carry out this subpart for any fiscal year, the Corporation shall reserve an amount of not more than 3 percent for payments to Indian tribes, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with their respective needs. The Corporation may also make payments from such amount to Palau, in accordance with its needs, until such time as the Compact of Free Association with Palau is ratified.

(b) **GRANTS AND ALLOTMENTS THROUGH STATES.**—The Corporation shall use the remainder of the funds appropriated to carry out this subpart for any fiscal year as follows:

(1) **GRANTS.**—Except as provided in paragraph (3), from 25 percent of such remainder, the Corporation may make grants, on a competitive basis, to—

(A) States and Indian tribes; or

(B) as described in section 111B, to grantmaking entities.

(2) **ALLOTMENTS.**—

(A) **SCHOOL-AGE YOUTH.**—Except as provided in paragraph (3), from 37.5 percent of such remainder, the Corporation shall allot to each State an amount that bears the same ratio to 37.5 percent of such remainder as the num-

ber of school-age youth in the State bears to the total number of school-age youth of all States.

(B) ALLOCATION UNDER ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—Except as provided in paragraph (3), from 37.5 percent of such remainder, the Corporation shall allot to each State an amount that bears the same ratio to 37.5 percent of such remainder as the allocation to the State for the previous fiscal year under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711 et seq.) or its successor authority bears to such allocations to all States.

(3) MINIMUM AMOUNT.—No State shall receive, under paragraph (2), an allotment that is less than the allotment such State received for fiscal year 1993 under section 112(b) of this Act, as in effect on the day before the date of enactment of this part. If the amount of funds made available in a fiscal year to carry out paragraph (2) is insufficient to make such allotments, the Corporation shall make available sums from the 25 percent described in paragraph (1) for such fiscal year to make such allotments.

(4) DEFINITION.—Notwithstanding section 101(26), for purposes of this subsection, the term “State” means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(c) REALLOTMENT.—If the Corporation determines that the allotment of a State or Indian tribe under this section will not be required for a fiscal year because the State or Indian tribe does not submit an application for the allotment under section 113 that meets the requirements of such section and such other requirements as the Chief Executive Officer may determine to be appropriate, the Corporation shall, after making any grants under section 111A to a partnership or agency described in such section, make any remainder of such allotment available for reallocation to such other States, and Indian tribes, with approved applications submitted under section 113, as the Corporation may determine to be appropriate.

(d) EXCEPTION.—Notwithstanding subsections (a) and (b), if less than \$20,000,000 is appropriated for any fiscal year to carry out this subpart, the Corporation shall award grants to States and Indian tribes, from the amount so appropriated, on a competitive basis to pay for the Federal share of the activities described in section 111.

SEC. 113. [42 U.S.C. 12525] STATE OR TRIBAL APPLICATIONS.

(a) SUBMISSION.—To be eligible to receive a grant under section 112(b)(1), an allotment under subsection (a) or (b)(2) of section 112, a reallocation under section 112(c), or a grant under section 112(d), a State, acting through the State educational agency, or an Indian tribe, shall prepare, submit to the Corporation, and obtain approval of, an application at such time and in such manner as the Chief Executive Officer may reasonably require.

(b) CONTENTS.—An application that is submitted under subsection (a) with respect to service-learning programs described in section 111 shall include—

(1) a 3-year strategic plan, or a revision of a previously approved 3-year strategic plan, for promoting service-learning through the programs, which plan shall contain such information as the Chief Executive Officer may reasonably require, including information demonstrating that the programs will be carried out in a manner consistent with the approved strategic plan;

(2) assurances that—

(A) the applicant will keep such records and provide such information to the Corporation with respect to the programs as may be required for fiscal audits and program evaluation; and

(B) the applicant will comply with the nonduplication and nondisplacement requirements of section 177 and the grievance procedure requirements of section 176(f); and

(3) such additional information as the Chief Executive Officer may reasonably require.

SEC. 114. [42 U.S.C. 12526] LOCAL APPLICATIONS.

(a) APPLICATION TO CORPORATION TO MAKE GRANTS FOR SCHOOL-BASED SERVICE-LEARNING PROGRAMS.—

(1) IN GENERAL.—To be eligible to receive a grant in accordance with section 111B(a) to make grants relating to school-based service-learning programs described in section 111(a), a grantmaking entity shall prepare, submit to the Corporation, and obtain approval of, an application.

(2) SUBMISSION.—Such application shall be submitted at such time and in such manner, and shall contain such information, as the Chief Executive Officer may reasonably require. Such application shall include a proposal to assist such programs in more than 1 State.

(b) DIRECT APPLICATION TO CORPORATION TO CARRY OUT SCHOOL-BASED SERVICE-LEARNING PROGRAMS IN NONPARTICIPATING STATES.—To be eligible to receive a grant from the Corporation in the circumstances described in section 111A to carry out an activity as described in such section, a partnership or agency described in such section shall prepare, submit to the Corporation, and obtain approval of, an application. Such application shall be submitted at such time and in such manner, and shall contain such information, as the Chief Executive Officer may reasonably require.

(c) APPLICATION TO STATE OR INDIAN TRIBE TO RECEIVE ASSISTANCE TO CARRY OUT SCHOOL-BASED SERVICE-LEARNING PROGRAMS.—

(1) IN GENERAL.—Any—

(A) qualified organization that desires to receive financial assistance under this subpart from a State or Indian tribe for an activity described in section 111(a)(1);

(B) partnership described in section 111(a)(2) that desires to receive such assistance from a State, Indian tribe, or grantmaking entity for an activity described in section 111(a)(2);

(C) agency described in section 111(a)(3) that desires to receive such assistance from a State or Indian tribe for an activity described in such section; or

(D) partnership described in section 111(a)(4) that desires to receive such assistance from a State or Indian tribe for an activity described in such section, to be carried out through a service-learning program described in section 111, shall prepare, submit to the State educational agency, Indian tribe, or grantmaking entity, and obtain approval of, an application for the program.

(2) SUBMISSION.—Such application shall be submitted at such time and in such manner, and shall contain such information, as the agency, tribe, or entity may reasonably require.

(d) REGULATIONS.—The Corporation shall by regulation establish standards for the information and assurances required to be contained in an application submitted under subsection (a) or (b) with respect to a service-learning program described in section 111, including, at a minimum, assurances that—

(1) prior to the placement of a participant, the entity carrying out the program will consult with the appropriate local labor organization, if any, representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program, to prevent the displacement and protect the rights of such employees;

(2) the entity carrying out the program will develop an age-appropriate learning component for participants in the program that shall include a chance for participants to analyze and apply their service experiences; and

(3) the entity carrying out the program will comply with the nonduplication and nondisplacement requirements of section 177 and the grievance procedure requirements of section 176(f).

(e) LIMITATION ON SAME PROJECT IN MULTIPLE APPLICATIONS.—No applicant shall submit an application under section 113 or this section, and the Corporation shall reject an application that is submitted under section 113 or this section, if the application describes a project proposed to be conducted using assistance requested by the applicant and the project is already described in another application pending before the Corporation.

SEC. 115. [42 U.S.C. 12527] CONSIDERATION OF APPLICATIONS.

(a) CRITERIA FOR APPLICATIONS.—In approving applications for financial assistance under subsection (a), (b), (c), or (d) of section 112, the Corporation shall consider such criteria with respect to sustainability, replicability, innovation, and quality of programs under this subpart as the Chief Executive Officer may by regulation specify. In providing assistance under this subpart, a State educational agency, Indian tribe, or grantmaking entity shall consider such criteria.

(b) PRIORITY FOR LOCAL APPLICATIONS.—In providing assistance under this subpart, a State educational agency or Indian tribe, or the Corporation if section 111A or 111B applies, shall give priority to entities that submit applications under section 114 with respect to service-learning programs described in section 111 that—

(1) involve participants in the design and operation of the program;

(2) are in the greatest need of assistance, such as programs targeting low-income areas;

(3) involve—

(A) students from public elementary or secondary schools, and students from private elementary or secondary schools, serving together; or

(B) students of different ages, races, sexes, ethnic groups, disabilities, or economic backgrounds, serving together; or

(4) are integrated into the academic program of the participants.

(c) **REJECTION OF APPLICATIONS.**—If the Corporation rejects an application submitted by a State under section 113 for an allotment under section 112(b)(2), the Corporation shall promptly notify the State of the reasons for the rejection of the application. The Corporation shall provide the State with a reasonable opportunity to revise and resubmit the application and shall provide technical assistance, if needed, to the State as part of the resubmission process. The Corporation shall promptly reconsider such resubmitted application.

SEC. 115A. [42 U.S.C. 12528] PARTICIPATION OF STUDENTS AND TEACHERS FROM PRIVATE SCHOOLS.

(a) **IN GENERAL.**—To the extent consistent with the number of students in the State or Indian tribe or in the school district of the local educational agency involved who are enrolled in private nonprofit elementary and secondary schools, such State, Indian tribe, or agency shall (after consultation with appropriate private school representatives) make provision—

(1) for the inclusion of services and arrangements for the benefit of such students so as to allow for the equitable participation of such students in the programs implemented to carry out the objectives and provide the benefits described in this subpart; and

(2) for the training of the teachers of such students so as to allow for the equitable participation of such teachers in the programs implemented to carry out the objectives and provide the benefits described in this subpart.

(b) **WAIVER.**—If a State, Indian tribe, or local educational agency is prohibited by law from providing for the participation of students or teachers from private nonprofit schools as required by subsection (a), or if the Corporation determines that a State, Indian tribe, or local educational agency substantially fails or is unwilling to provide for such participation on an equitable basis, the Chief Executive Officer shall waive such requirements and shall arrange for the provision of services to such students and teachers. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with paragraphs (3) and (4) of section 1017(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2727(b)), as in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994.

SEC. 116. [42 U.S.C. 12529] FEDERAL, STATE, AND LOCAL CONTRIBUTIONS.

(a) **SHARE.**—

(1) IN GENERAL.—The Federal share attributable to this subpart of the cost of carrying out a program for which a grant or allotment is made under this subpart may not exceed—

(A) 90 percent of the total cost of the program for the first year for which the program receives assistance under this subpart;

(B) 80 percent of the total cost of the program for the second year for which the program receives assistance under this subpart;

(C) 70 percent of the total cost of the program for the third year for which the program receives assistance under this subpart; and

(D) 50 percent of the total cost of the program for the fourth year, and for any subsequent year, for which the program receives assistance under this subpart.

(2) CALCULATION.—In providing for the remaining share of the cost of carrying out such a program, each recipient of assistance under this subpart—

(A) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services; and

(B) may provide for such share through State sources, local sources, or Federal sources (other than funds made available under the national service laws).

(b) WAIVER.—The Chief Executive Officer may waive the requirements of subsection (a) in whole or in part with respect to any such program in any fiscal year if the Corporation determines that such a waiver would be equitable due to a lack of available financial resources at the local level.

SEC. 116A. [42 U.S.C. 12530] LIMITATIONS ON USES OF FUNDS.

(a) ADMINISTRATIVE COSTS.—

(1) LIMITATION.—Not more than 5 percent of the amount of assistance provided to a State educational agency, Indian tribe, or grantmaking entity that is the original recipient of a grant or allotment under subsection (a), (b), (c), or (d) of section 112 for a fiscal year may be used to pay for administrative costs incurred by—

(A) the original recipient; or

(B) the entity carrying out the service-learning programs supported with the assistance.

(2) RULES ON USE.—The Chief Executive Officer may by rule prescribe the manner and extent to which—

(A) such assistance may be used to cover administrative costs; and

(B) that portion of the assistance available to cover administrative costs should be distributed between—

(i) the original recipient; and

(ii) the entity carrying out the service-learning programs supported with the assistance.

(b) CAPACITY-BUILDING ACTIVITIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), not less than 10 percent and not more than 15 percent of the amount of assistance provided to a State educational agency or Indian tribe that is the original recipient of a grant or allot-

ment under subsection (a), (b), (c), or (d) of section 112 for a fiscal year may be used to build capacity through training, technical assistance, curriculum development, and coordination activities, described in section 111(a)(1).

(2) **WAIVER.**—The Chief Executive Officer may waive the requirements of paragraph (1) in order to permit an agency or a tribe to use not less than 10 percent and not more than 20 percent of such amount to build capacity as provided in paragraph (1). To be eligible to receive such a waiver such an agency or tribe shall submit an application to the Chief Executive Officer at such time, in such manner, and containing such information as the Chief Executive Officer may require.

(c) **LOCAL USES OF FUNDS.**—Funds made available under this subpart may not be used to pay any stipend, allowance, or other financial support to any student who is a participant under this subtitle, except reimbursement for transportation, meals, and other reasonable out-of-pocket expenses directly related to participation in a program assisted under this subpart.

SEC. 116B. [42 U.S.C. 12531] DEFINITIONS.

As used in this subpart:

(1) **GRANTMAKING ENTITY.**—The term “grantmaking entity” means an organization described in section 111B(a).

(2) **SCHOOL-BASED.**—The term “school-based” means based in an elementary school or a secondary school.

(3) **STUDENT.**—Notwithstanding section 101(29), the term “student” means an individual who is enrolled in an elementary or secondary school on a full- or part-time basis.

Subpart B—Community-Based Service Programs for School-Age Youth

SEC. 117. [42 U.S.C. 12541] DEFINITIONS.

As used in this subpart:

(1) **COMMUNITY-BASED SERVICE PROGRAM.**—The term “community-based service program” means a program described in section 117A(b)(1)(A).

(2) **GRANTMAKING ENTITY.**—The term “grantmaking entity” means a qualified organization that—

(A) submits an application under section 117C(a) to make grants to qualified organizations;

(B) was in existence at least 1 year before the date on which the organization submitted the application; and

(C) meets such other criteria as the Chief Executive Officer shall establish.

(3) **QUALIFIED ORGANIZATION.**—The term “qualified organization” means a public or private nonprofit organization with experience working with school-age youth that meets such criteria as the Chief Executive Officer may establish.

SEC. 117A. [42 U.S.C. 12542] GENERAL AUTHORITY.

(a) **GRANTS.**—From the funds appropriated to carry out this subpart for a fiscal year, the Corporation may make grants to State Commissions, grantmaking entities, and qualified organizations to pay for the Federal share of the implementation, operation, expansion, or replication of community-based service programs.

(b) USE OF FUNDS.—

(1) STATE COMMISSIONS AND GRANTMAKING ENTITIES.—A State Commission or grantmaking entity may use a grant made under subsection (a)—

(A) to make a grant to a qualified organization to implement, operate, expand, or replicate a community-based service program that provides for meaningful human, educational, environmental, or public safety service by participants, who shall be school-age youth; or

(B) to provide training and technical assistance to such an organization.

(2) QUALIFIED ORGANIZATIONS.—A qualified organization, other than a grantmaking entity, may use a grant made under subsection (a) to implement, operate, expand, or replicate a program described in paragraph (1)(A).

SEC. 117B. [42 U.S.C. 12543] STATE APPLICATIONS.

(a) IN GENERAL.—To be eligible to receive a grant under section 117A(a), a State Commission shall prepare, submit to the Corporation, and obtain approval of, an application.

(b) SUBMISSION.—Such application shall be submitted to the Corporation at such time and in such manner, and shall contain such information, as the Chief Executive Officer may reasonably require.

(c) CONTENTS.—Such an application shall include, at a minimum, a State plan that contains the information and assurances described in section 117C(d) with respect to each community-based service program proposed to be carried out through funding distributed by the State Commission under this subpart.

SEC. 117C. [42 U.S.C. 12544] LOCAL APPLICATIONS.

(a) APPLICATION TO CORPORATION TO MAKE GRANTS FOR COMMUNITY-BASED SERVICE PROGRAMS.—To be eligible to receive a grant from the Corporation under section 117A(a) to make grants under section 117A(b)(1), a grantmaking entity shall prepare, submit to the Corporation, and obtain approval of, an application that proposes a community-based service program to be carried out through grants made to qualified organizations. Such application shall be submitted at such time and in such manner, and shall contain such information, as the Chief Executive Officer may reasonably require.

(b) DIRECT APPLICATION TO CORPORATION TO CARRY OUT COMMUNITY-BASED SERVICE PROGRAMS.—To be eligible to receive a grant from the Corporation under section 117A(a) to implement, operate, expand, or replicate a community service program, a qualified organization shall prepare, submit to the Corporation, and obtain approval of, an application that proposes a community-based service program to be carried out at multiple sites, or that proposes an innovative community-based service program. Such application shall be submitted at such time and in such manner, and shall contain such information, as the Chief Executive Officer may reasonably require.

(c) APPLICATION TO STATE COMMISSION OR GRANTMAKING ENTITY TO RECEIVE GRANTS TO CARRY OUT COMMUNITY-BASED SERVICE PROGRAMS.—To be eligible to receive a grant from a State Commission or grantmaking entity under section 117A(b)(1), a qualified or-

ganization shall prepare, submit to the Commission or entity, and obtain approval of, an application. Such application shall be submitted at such time and in such manner, and shall contain such information, as the Commission or entity may reasonably require.

(d) REGULATIONS.—The Corporation shall by regulation establish standards for the information and assurances required to be contained in an application submitted under subsection (a) or (b) with respect to a community-based service program, including, at a minimum—

(1) an assurance that the entity carrying out the program proposed by the applicant will comply with the nonduplication and nondisplacement provisions of section 177 and the grievance procedure requirements of section 176(f);

(2) an assurance that the entity carrying out the program will, prior to placing a participant in the program, consult with the appropriate local labor organization, if any, representing employees in the area in which the program will be carried out that are engaged in the same or similar work as the work proposed to be carried out by the program, to prevent the displacement of such employees; and

(3) in the case of an application submitted by a grantmaking entity, information demonstrating that the entity will make grants for a program to—

(A) carry out activities described in section 117A(b)(1) in two or more States, under circumstances in which the activities carried out under such program can be carried out more efficiently through one program than through two or more programs; and

(B) carry out the same activities, such as training activities or activities related to exchanging information on service experiences, through each of the projects assisted through the program.

(e) LIMITATION ON SAME PROJECT IN MULTIPLE APPLICATIONS.—No applicant shall submit an application under section 117B or this section, and the Corporation shall reject an application that is submitted under section 117B or this section, if the application describes a project proposed to be conducted using assistance requested by the applicant and the project is already described in another application pending before the Corporation.

SEC. 117D. [42 U.S.C. 12545] CONSIDERATION OF APPLICATIONS.

(a) APPLICATION OF CRITERIA.—The Corporation shall apply the criteria described in subsection (b) in determining whether to approve an application submitted under section 117B or under subsection (a) or (b) of section 117C and to provide assistance under section 117A to the applicant on the basis of the application.

(b) ASSISTANCE CRITERIA.—In evaluating such an application with respect to a program under this subpart, the Corporation shall consider the criteria established for national service programs under section 133(c).

(c) APPLICATION TO SUBGRANTS.—A State Commission or grantmaking entity shall apply the criteria described in subsection (b) in determining whether to approve an application under section 117C(c) and to make a grant under section 117A(b)(1) to the applicant on the basis of the application.

SEC. 117E. [42 U.S.C. 12546] FEDERAL, STATE, AND LOCAL CONTRIBUTIONS.**(a) FEDERAL SHARE.—**

(1) **IN GENERAL.**—The Federal share attributable to this subpart of the cost of carrying out a program for which a grant is made under this subpart may not exceed the percentage specified in subparagraph (A), (B), (C), or (D) of section 116(a)(1), as appropriate.

(2) **CALCULATION.**—Each recipient of assistance under this subpart shall comply with section 116(a)(2).

(b) WAIVER.—The Chief Executive Officer may waive the requirements of subsection (a), in whole or in part, as provided in section 116(b).

SEC. 117F. [42 U.S.C. 12547] LIMITATIONS ON USES OF FUNDS.

(a) ADMINISTRATIVE COSTS.—Not more than 5 percent of the amount of assistance provided to a State Commission, grantmaking entity, or qualified organization that is the original recipient of a grant under section 117A(a) for a fiscal year may be used to pay for administrative costs incurred by—

(1) the original recipient; or

(2) the entity carrying out the community-based service programs supported with the assistance.

(b) RULES ON USE.—The Chief Executive Officer may by rule prescribe the manner and extent to which—

(1) such assistance may be used to cover administrative costs; and

(2) that portion of the assistance available to cover administrative costs should be distributed between—

(A) the original recipient; and

(B) the entity carrying out the community-based service programs supported with the assistance.

Subpart C—Clearinghouse

SEC. 118. [42 U.S.C. 12551] SERVICE-LEARNING CLEARINGHOUSE.

(a) IN GENERAL.—The Corporation shall provide financial assistance, from funds appropriated to carry out subtitle H, to organizations described in subsection (b) to establish a clearinghouse, which shall carry out activities, either directly or by arrangement with another such organization, with respect to information about service-learning.

(b) PUBLIC OR PRIVATE NONPROFIT ORGANIZATIONS.—Public or private nonprofit organizations that have extensive experience with service-learning, including use of adult volunteers to foster service-learning, shall be eligible to receive assistance under subsection (a).

(c) FUNCTION OF CLEARINGHOUSE.—An organization that receives assistance under subsection (a) may—

(1) assist entities carrying out State or local service-learning programs with needs assessments and planning;

(2) conduct research and evaluations concerning service-learning;

(3)(A) provide leadership development and training to State and local service-learning program administrators, supervisors, service sponsors, and participants; and

(B) provide training to persons who can provide the leadership development and training described in subparagraph (A);

(4) facilitate communication among entities carrying out service-learning programs and participants in such programs;

(5) provide information, curriculum materials, and technical assistance relating to planning and operation of service-learning programs, to States and local entities eligible to receive financial assistance under this title;

(6) provide information regarding methods to make service-learning programs accessible to individuals with disabilities;

(7)(A) gather and disseminate information on successful service-learning programs, components of such successful programs, innovative youth skills curricula related to service-learning, and service-learning projects; and

(B) coordinate the activities of the Clearinghouse with appropriate entities to avoid duplication of effort;

(8) make recommendations to State and local entities on quality controls to improve the quality of service-learning programs;

(9) assist organizations in recruiting, screening, and placing service-learning coordinators; and

(10) carry out such other activities as the Chief Executive Officer determines to be appropriate.

PART II—HIGHER EDUCATION INNOVATIVE PROGRAMS FOR COMMUNITY SERVICE

SEC. 119. [42 U.S.C. 12561] HIGHER EDUCATION INNOVATIVE PROGRAMS FOR COMMUNITY SERVICE.

(a) **PURPOSE.**—It is the purpose of this part to expand participation in community service by supporting innovative community service programs carried out through institutions of higher education, acting as civic institutions to meet the human, educational, environmental, or public safety needs of neighboring communities.

(b) **GENERAL AUTHORITY.**—The Corporation, in consultation with the Secretary of Education, is authorized to make grants to, and enter into contracts with, institutions of higher education (including a combination of such institutions), and partnerships comprised of such institutions and of other public or private nonprofit organizations, to pay for the Federal share of the cost of—

(1) enabling such an institution or partnership to create or expand an organized community service program that—

(A) engenders a sense of social responsibility and commitment to the community in which the institution is located; and

(B) provides projects for participants, who shall be students, faculty, administration, or staff of the institution, or residents of the community;

(2) supporting student-initiated and student-designed community service projects through the program;

(3) strengthening the leadership and instructional capacity of teachers at the elementary, secondary, and postsecondary levels, with respect to service-learning, by—

- (A) including service-learning as a key component of the preservice teacher education of the institution; and
- (B) encouraging the faculty of the institution to use service-learning methods throughout their curriculum;
- (4) facilitating the integration of community service carried out under the program into academic curricula, including integration of clinical programs into the curriculum for students in professional schools, so that students can obtain credit for their community service projects;
- (5) supplementing the funds available to carry out work-study programs under part C of title IV of the Higher Education Act of 1965 (42 U.S.C. 2751 et seq.) to support service-learning and community service through the community service program;
- (6) strengthening the service infrastructure within institutions of higher education in the United States through the program; and
- (7) providing for the training of teachers, prospective teachers, related education personnel, and community leaders in the skills necessary to develop, supervise, and organize service-learning.

(c) FEDERAL SHARE.—

(1) SHARE.—

(A) IN GENERAL.—The Federal share of the cost of carrying out a community service project for which a grant or contract is awarded under this part may not exceed 50 percent.

(B) CALCULATION.—Each recipient of assistance under this part shall comply with section 116(a)(2).

(2) WAIVER.—The Chief Executive Officer may waive the requirements of paragraph (1), in whole or in part, as provided in section 116(b).

(d) APPLICATION FOR GRANT.—

(1) SUBMISSION.—To receive a grant or enter into a contract under this part, an institution or partnership described in subsection (b) shall prepare, submit to the Corporation, and obtain approval of, an application at such time, in such manner, and containing such information and assurances as the Corporation may reasonably require. In requesting applications for assistance under this part, the Corporation shall specify such required information and assurances.

(2) CONTENTS.—An application submitted under paragraph (1) shall contain, at a minimum—

(A) assurances that—

(i) prior to the placement of a participant, the applicant will consult with the appropriate local labor organization, if any, representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program, to prevent the displacement and protect the rights of such employees; and

(ii) the applicant will comply with the nonduplication and nondisplacement provisions of section 177 and grievance procedure requirements of section 176(f); and

(B) such other assurances as the Chief Executive Officer may reasonably require.

(e) PRIORITY.—

(1) IN GENERAL.—In making grants and entering into contracts under subsection (b), the Corporation shall give priority to applicants that submit applications containing proposals that—

(A) demonstrate the commitment of the institution of higher education, other than by demonstrating the commitment of the students, to supporting the community service projects carried out under the program;

(B) specify the manner in which the institution will promote faculty, administration, and staff participation in the community service projects;

(C) specify the manner in which the institution will provide service to the community through organized programs, including, where appropriate, clinical programs for students in professional schools;

(D) describe any partnership that will participate in the community service projects, such as a partnership comprised of—

(i) the institution;

(ii)(I) a community-based agency;

(II) a local government agency; or

(III) a nonprofit entity that serves or involves school-age youth or older adults; and

(iii) a student organization;

(E) demonstrate community involvement in the development of the proposal;

(F) specify that the institution will use such assistance to strengthen the service infrastructure in institutions of higher education; or

(G) with respect to projects involving delivery of service, specify projects that involve leadership development of school-age youth.

(2) DETERMINATION.—In giving priority to applicants under paragraph (1), the Corporation shall give increased priority to such an applicant for each characteristic described in subparagraphs (A) through (G) of paragraph (1) that is reflected in the application submitted by the applicant.

(f) NATIONAL SERVICE EDUCATIONAL AWARD.—A participant in a program funded under this part shall be eligible for the national service educational award described in subtitle D, if the participant served in an approved national service position.

(g) DEFINITION.—Notwithstanding section 101(29), as used in this part, the term “student” means an individual who is enrolled in an institution of higher education on a full- or part-time basis.

Subtitle C—National Service Trust Program

PART I—INVESTMENT IN NATIONAL SERVICE

SEC. 121. [42 U.S.C. 12571] AUTHORITY TO PROVIDE ASSISTANCE AND APPROVED NATIONAL SERVICE POSITIONS.

(a) PROVISION OF ASSISTANCE.—Subject to the availability of appropriations for this purpose, the Corporation for National and Community Service may make grants to States, subdivisions of States, Indian tribes, public or private nonprofit organizations, and institutions of higher education for the purpose of assisting the recipients of the grants—

(1) to carry out full- or part-time national service programs, including summer programs, described in section 122(a); and

(2) to make grants in support of other national service programs described in section 122(a) that are carried out by other entities.

(b) AGREEMENTS WITH FEDERAL AGENCIES.—

(1) AGREEMENTS AUTHORIZED.—The Corporation may enter into a contract or cooperative agreement with another Federal agency to support a national service program carried out by the agency. The support provided by the Corporation pursuant to the contract or cooperative agreement may include the transfer to the Federal agency of funds available to the Corporation under this subtitle.

(2) MATCHING FUNDS REQUIREMENTS.—A Federal agency receiving assistance under this subsection shall not be required to satisfy the matching funds requirements specified in subsection (e). However, the supplementation requirements specified in section 173 shall apply with respect to the Federal national service programs supported with such assistance.

(3) CONSULTATION WITH STATE COMMISSIONS.—A Federal agency receiving assistance under this subsection shall consult with the State Commissions for those States in which projects will be conducted using such assistance in order to ensure that the projects do not duplicate projects conducted by State or local national service programs.

(4) SUPPORT FOR OTHER NATIONAL SERVICE PROGRAMS.—A Federal agency that enters into a contract or cooperative agreement under paragraph (1) shall, in an appropriate case, enter into a contract or cooperative agreement with an entity that is carrying out a national service program in a State that is in existence in the State as of the date of the contract or cooperative agreement and is of high quality, in order to support the national service program.

(c) PROVISION OF APPROVED NATIONAL SERVICE POSITIONS.—As part of the provision of assistance under subsections (a) and (b), the Corporation shall—

(1) approve the provision of national service educational awards described in subtitle D for the participants who serve in national service programs carried out using such assistance; and

(2) deposit in the National Service Trust established in section 145(a) an amount equal to the product of—

(A) the value of a national service educational award under section 147; and

(B) the total number of approved national service positions to be provided.

(d) FIVE PERCENT LIMITATION ON ADMINISTRATIVE COSTS.—

(1) LIMITATION.—Not more than 5 percent of the amount of assistance provided to the original recipient of a grant or transfer of assistance under subsection (a) or (b) for a fiscal year may be used to pay for administrative costs incurred by—

(A) the recipient of the assistance; and

(B) national service programs carried out or supported with the assistance.

(2) RULES ON USE.—The Corporation may by rule prescribe the manner and extent to which—

(A) assistance provided under subsection (a) or (b) may be used to cover administrative costs; and

(B) that portion of the assistance available to cover administrative costs should be distributed between—

(i) the original recipient of the grant or transfer of assistance under such subsection; and

(ii) national service programs carried out or supported with the assistance.

(e) MATCHING FUNDS REQUIREMENTS.—

(1) REQUIREMENTS.—Except as provided in section 140, the Federal share of the cost of carrying out a national service program that receives the assistance under subsection (a), whether the assistance is provided directly or as a subgrant from the original recipient of the assistance, may not exceed 75 percent of such cost.

(2) CALCULATION.—In providing for the remaining share of the cost of carrying out a national service program, the program—

(A) shall provide for such share through a payment in cash or in kind, fairly evaluated, including facilities, equipment, or services; and

(B) may provide for such share through State sources, local sources, or other Federal sources (other than the use of funds made available under the national service laws).

(3) COST OF HEALTH CARE.—In providing a payment in cash under paragraph (2)(A) as part of providing for the remaining share of the cost of carrying out a national service program, the program may count not more than 85 percent of the cost of providing a health care policy described in section 140(d)(2) toward such share.

(4) WAIVER.—The Corporation may waive in whole or in part the requirements of paragraph (1) with respect to a national service program in any fiscal year if the Corporation determines that such a waiver would be equitable due to a lack of available financial resources at the local level.

SEC. 122. [42 U.S.C. 12572] TYPES OF NATIONAL SERVICE PROGRAMS ELIGIBLE FOR PROGRAM ASSISTANCE.

(a) ELIGIBLE NATIONAL SERVICE PROGRAMS.—The recipient of a grant under section 121(a) and each Federal agency receiving as-

sistance under section 121(b) shall use the assistance, directly or through subgrants to other entities, to carry out full- or part-time national service programs, including summer programs, that address unmet human, educational, environmental, or public safety needs. Subject to subsection (b)(1), these national service programs may include the following types of national service programs:

(1) A community corps program that meets unmet human, educational, environmental, or public safety needs and promotes greater community unity through the use of organized teams of participants of varied social and economic backgrounds, skill levels, physical and developmental capabilities, ages, ethnic backgrounds, or genders.

(2) A full-time, year-round youth corps program or full-time summer youth corps program, such as a conservation corps or youth service corps (including youth corps programs under subtitle I, the Public Lands Corps established under the Public Lands Corps Act of 1993, the Urban Youth Corps established under section 106 of the National and Community Service Trust Act of 1993, and other conservation corps or youth service corps that performs service on Federal or other public lands or on Indian lands or Hawaiian home lands), that—

(A) undertakes meaningful service projects with visible public benefits, including natural resource, urban renovation, or human services projects;

(B) includes as participants youths and young adults between the ages of 16 and 25, inclusive, including out-of-school youths and other disadvantaged youths (such as youths with limited basic skills, youths in foster care who are becoming too old for foster care, youths of limited-English proficiency, homeless youths, and youths who are individuals with disabilities) who are between those ages; and

(C) provides those participants who are youths and young adults with—

(i) crew-based, highly structured, and adult-supervised work experience, life skills, education, career guidance and counseling, employment training, and support services; and

(ii) the opportunity to develop citizenship values and skills through service to their community and the United States.

(3) A program that provides specialized training to individuals in service-learning and places the individuals after such training in positions, including positions as service-learning coordinators, to facilitate service-learning in programs eligible for funding under part I of subtitle B.

(4) A service program that is targeted at specific unmet human, educational, environmental, or public safety needs and that—

(A) recruits individuals with special skills or provides specialized preservice training to enable participants to be placed individually or in teams in positions in which the participants can meet such unmet needs; and

(B) if consistent with the purposes of the program, brings participants together for additional training and

- other activities designed to foster civic responsibility, increase the skills of participants, and improve the quality of the service provided.
- (5) An individualized placement program that includes regular group activities, such as leadership training and special service projects.
- (6) A campus-based program that is designed to provide substantial service in a community during the school term and during summer or other vacation periods through the use of—
- (A) students who are attending an institution of higher education, including students participating in a work-study program assisted under part C of title IV of the Higher Education Act of 1965 (42 U.S.C. 2751 et seq.);
 - (B) teams composed of such students; or
 - (C) teams composed of a combination of such students and community residents.
- (7) A preprofessional training program in which students enrolled in an institution of higher education—
- (A) receive training in specified fields, which may include classes containing service-learning;
 - (B) perform service related to such training outside the classroom during the school term and during summer or other vacation periods; and
 - (C) agree to provide service upon graduation to meet unmet human, educational, environmental, or public safety needs related to such training.
- (8) A professional corps program that recruits and places qualified participants in positions—
- (A) as teachers, nurses and other health care providers, police officers, early childhood development staff, engineers, or other professionals providing service to meet educational, human, environmental, or public safety needs in communities with an inadequate number of such professionals;
 - (B) that may include a salary in excess of the maximum living allowance authorized in subsection (a)(3) of section 140, as provided in subsection (c) of such section; and
 - (C) that are sponsored by public or private nonprofit employers who agree to pay 100 percent of the salaries and benefits (other than any national service educational award under subtitle D) of the participants.
- (9) A program in which economically disadvantaged individuals who are between the ages of 16 and 24 years of age, inclusive, are provided with opportunities to perform service that, while enabling such individuals to obtain the education and employment skills necessary to achieve economic self-sufficiency, will help their communities meet—
- (A) the housing needs of low-income families and the homeless; and
 - (B) the need for community facilities in low-income areas.
- (10) A national service entrepreneur program that identifies, recruits, and trains gifted young adults of all backgrounds

and assists them in designing solutions to community problems.

(11) An intergenerational program that combines students, out-of-school youths, and older adults as participants to provide needed community services, including an intergenerational component for other national service programs described in this subsection.

(12) A program that is administered by a combination of nonprofit organizations located in a low-income area, provides a broad range of services to residents of such area, is governed by a board composed in significant part of low-income individuals, and is intended to provide opportunities for individuals or teams of individuals to engage in community projects in such area that meet unaddressed community and individual needs, including projects that would—

(A) meet the needs of low-income children and youth aged 18 and younger, such as providing after-school “safe-places”, including schools, with opportunities for learning and recreation; or

(B) be directed to other important unaddressed needs in such area.

(13) A community service program designed to meet the needs of rural communities, using teams or individual placements to address the development needs of rural communities and to combat rural poverty, including health care, education, and job training.

(14) A program that seeks to eliminate hunger in communities and rural areas through service in projects—

(A) involving food banks, food pantries, and nonprofit organizations that provide food during emergencies;

(B) involving the gleaning of prepared and unprepared food that would otherwise be discarded as unusable so that the usable portion of such food may be donated to food banks, food pantries, and other nonprofit organizations;

(C) seeking to address the long-term causes of hunger through education and the delivery of appropriate services; or

(D) providing training in basic health, nutrition, and life skills necessary to alleviate hunger in communities and rural areas.

(15) Such other national service programs addressing unmet human, educational, environmental, or public safety needs as the Corporation may designate.

(b) QUALIFICATION CRITERIA TO DETERMINE ELIGIBILITY.—

(1) ESTABLISHMENT BY CORPORATION.—The Corporation shall establish qualification criteria for different types of national service programs for the purpose of determining whether a particular national service program should be considered to be a national service program eligible to receive assistance or approved national service positions under this subtitle.

(2) CONSULTATION.—In establishing qualification criteria under paragraph (1), the Corporation shall consult with organizations and individuals with extensive experience in developing and administering effective national service programs or

regarding the delivery of human, educational, environmental, or public safety services to communities or persons.

(3) APPLICATION TO SUBGRANTS.—The qualification criteria established by the Corporation under paragraph (1) shall also be used by each recipient of assistance under section 121(a) that uses any portion of the assistance to conduct a grant program to support other national service programs.

(4) ENCOURAGEMENT OF INTERGENERATIONAL COMPONENTS OF PROGRAMS.—The Corporation shall encourage national service programs eligible to receive assistance or approved national service positions under this subtitle to establish, if consistent with the purposes of the program, an intergenerational component of the program that combines students, out-of-school youths, and older adults as participants to provide services to address unmet human, educational, environmental, or public safety needs.

(c) NATIONAL SERVICE PRIORITIES.—

(1) ESTABLISHMENT.—

(A) BY CORPORATION.—In order to concentrate national efforts on meeting certain unmet human, educational, environmental, or public safety needs and to achieve the other purposes of this Act, the Corporation shall establish, and after reviewing the strategic plan approved under section 192A(g)(1), periodically alter priorities as appropriate regarding the types of national service programs to be assisted under subsection (b) or (d) of section 129 and the purposes for which such assistance may be used.

(B) BY STATES.—Consistent with paragraph (4), States shall establish, and through the national service plan process described in section 178(e)(1), periodically alter priorities as appropriate regarding the national service programs to be assisted under section 129(a)(1). The State priorities shall be subject to Corporation review as part of the application process under section 130.

(2) NOTICE TO APPLICANTS.—The Corporation shall provide advance notice to potential applicants of any national service priorities to be in effect under this subsection for a fiscal year. The notice shall specifically include—

(A) a description of any alteration made in the priorities since the previous notice; and

(B) a description of the national service programs that are designated by the Corporation under section 133(d)(2) as eligible for priority consideration in the next competitive distribution of assistance under section 121(a).

(3) REGULATIONS.—The Corporation shall by regulation establish procedures to ensure the equitable treatment of national service programs that—

(A) receive funding under this subtitle for multiple years; and

(B) would be adversely affected by annual revisions in such national service priorities.

(4) APPLICATION TO SUBGRANTS.—Any national service priorities established by the Corporation under this subsection shall also be used by each recipient of funds under section

121(a) that uses any portion of the assistance to conduct a grant program to support other national service programs.

SEC. 123. [42 U.S.C. 12573] TYPES OF NATIONAL SERVICE POSITIONS ELIGIBLE FOR APPROVAL FOR NATIONAL SERVICE EDUCATIONAL AWARDS.

The Corporation may approve of any of the following service positions as an approved national service position that includes the national service educational award described in subtitle D as one of the benefits to be provided for successful service in the position:

(1) A position for a participant in a national service program described in section 122(a) that receives assistance under subsection (a) or (b) of section 121.

(2) A position for a participant in a program that—

(A) is carried out by a State, a subdivision of a State, an Indian tribe, a public or private nonprofit organization, an institution of higher education, or a Federal agency; and

(B) would be eligible to receive assistance under section 121(a), based on criteria established by the Corporation, but has not applied for such assistance.

(3) A position involving service as a VISTA volunteer under title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.).

(4) A position facilitating service-learning in a program described in section 122(a)(3) that is eligible for assistance under part I of subtitle B.

(5) A position for a participant in the Civilian Community Corps under subtitle E.

(6) A position involving service as a crew leader in a youth corps program or a similar position supporting a national service program that receives an approved national service position.

(7) Such other national service positions as the Corporation considers to be appropriate.

SEC. 124. [42 U.S.C. 12574] TYPES OF PROGRAM ASSISTANCE.

(a) **PLANNING ASSISTANCE.**—The Corporation may provide assistance under section 121 to a qualified applicant that submits an application under section 130 for the planning of a national service program. Assistance provided in accordance with this subsection may cover a period of not more than 1 year.

(b) **OPERATIONAL ASSISTANCE.**—The Corporation may provide assistance under section 121 to a qualified applicant that submits an application under section 130 for the establishment, operation, or expansion of a national service program. Assistance provided in accordance with this subsection may cover a period of not more than 3 years, but may be renewed by the Corporation upon consideration of a new application under section 130.

(c) **REPLICATION ASSISTANCE.**—The Corporation may provide assistance under section 121 to a qualified applicant that submits an application under section 130 for the expansion of a proven national service program to another geographical location. Assistance provided in accordance with this subsection may cover a period of not more than 3 years, but may be renewed by the Corporation upon consideration of a new application under section 130.

(d) APPLICATION TO SUBGRANTS.—The requirements of this section shall apply to any State or other applicant receiving assistance under section 121 that proposes to conduct a grant program using the assistance to support other national service programs.

SEC. 125. [42 U.S.C. 12575] TRAINING AND TECHNICAL ASSISTANCE.

(a) TRAINING PROGRAMS.—The Corporation may conduct, directly or by grant or contract, appropriate training programs regarding national service in order to—

(1) improve the ability of national service programs assisted under section 121 to meet human, educational, environmental, or public safety needs in communities—

(A) where services are needed most; and

(B) where programs do not exist, or are too limited to meet community needs, as of the date on which the Corporation makes the grant or enters into the contract;

(2) promote leadership development in such programs;

(3) improve the instructional and programmatic quality of such programs to build an ethic of civic responsibility;

(4) develop the management and budgetary skills of program operators;

(5) provide for or improve the training provided to the participants in such programs; and

(6) encourage national service programs to adhere to risk management procedures, including the training of participants in appropriate risk management practices.

(b) TECHNICAL ASSISTANCE.—To the extent appropriate and necessary, the Corporation shall make technical assistance available to States, Indian tribes, labor organizations, organizations operated by young adults, organizations serving economically disadvantaged individuals, and other entities described in section 121 that desire—

(1) to develop national service programs; or

(2) to apply for assistance under such section or under a grant program conducted using assistance provided under such section.

SEC. 126. [42 U.S.C. 12576] OTHER SPECIAL ASSISTANCE.

(a) SUPPORT FOR STATE COMMISSIONS.—

(1) GRANTS AUTHORIZED.—From amounts appropriated for a fiscal year pursuant to the authorization of appropriation in section 501(a)(4), the Corporation may make a grant in an amount between \$125,000 and \$750,000 to a State to assist the State to establish or operate the State Commission on National and Community Service required to be established by the State under section 178.

(2) LIMITATION ON AMOUNT OF GRANTS.—Notwithstanding the amounts specified in paragraph (1), the amount of a grant that may be provided to a State Commission under this subsection, together with other Federal funds available to establish or operate the State Commission, may not exceed—

(A) 85 percent of the total cost to establish or operate the State Commission for the first year for which the State Commission receives assistance under this subsection; and

(B) such smaller percentage of such cost as the Corporation may establish for the second, third, and fourth

years of such assistance in order to ensure that the Federal share does not exceed 50 percent of such costs for the fifth year, and any subsequent year, for which the State Commission receives assistance under this subsection.

(b) **DISASTER SERVICE.**—The Corporation may undertake activities, including activities carried out through part A of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.), to involve in disaster relief efforts youth corps programs described in section 122(a)(2) and other programs that receive assistance under the national service laws.

(c) **CHALLENGE GRANTS FOR NATIONAL SERVICE PROGRAMS.**—

(1) **ASSISTANCE AUTHORIZED.**—The Corporation may make challenge grants under this subsection to national service programs that receive assistance under section 121.

(2) **SELECTION CRITERIA.**—The Corporation shall develop criteria for the selection of recipients of challenge grants under this subsection, so as to make the grants widely available to a variety of programs that—

(A) are high-quality national service programs; and

(B) are carried out by entities with demonstrated experience in establishing and implementing projects that provide benefits to participants and communities.

(3) **AMOUNT OF ASSISTANCE.**—A challenge grant under this subsection may provide not more than \$1 of assistance under this subsection for each \$1 in cash raised by the national service program from private sources in excess of amounts required to be provided by the program to satisfy matching funds requirements under section 121(e). The Corporation shall establish a ceiling on the amount of assistance that may be provided to a national service program under this subsection.

PART II—APPLICATION AND APPROVAL PROCESS

SEC. 129. [42 U.S.C. 12581] PROVISION OF ASSISTANCE AND APPROVED NATIONAL SERVICE POSITIONS BY COMPETITIVE AND OTHER MEANS.

(a) **ALLOTMENTS OF ASSISTANCE AND APPROVED POSITIONS TO STATES AND INDIAN TRIBES.**—

(1) **33 $\frac{1}{3}$ PERCENT ALLOTMENT OF ASSISTANCE TO CERTAIN STATES.**—Of the funds allocated by the Corporation for provision of assistance under subsections (a) and (b) of section 121 for a fiscal year, the Corporation shall make a grant under section 121(a) (and a corresponding allotment of approved national service positions) to each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico that has an application approved by the Corporation under section 133. The amount allotted as a grant to each such State under this paragraph for a fiscal year shall be equal to the amount that bears the same ratio to 33 $\frac{1}{3}$ percent of the allocated funds for that fiscal year as the population of the State bears to the total population of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(2) **ONE PERCENT ALLOTMENT FOR CERTAIN TERRITORIES AND POSSESSIONS.**—Of the funds allocated by the Corporation

for provision of assistance under subsections (a) and (b) of section 121 for a fiscal year, the Corporation shall reserve 1 percent of the allocated funds for grants under section 121(a) to the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands upon approval of an application by the Corporation under section 133. Palau shall also be eligible for a grant under this paragraph from the allotment until such time as the Compact of Free Association with Palau is ratified. The amount allotted as a grant to each such territory or possession under this paragraph for a fiscal year shall be equal to the amount that bears the same ratio to 1 percent of the allocated funds for that fiscal year as the population of the territory or possession bears to the total population of such territories and possessions.

(3) ONE PERCENT ALLOTMENT FOR INDIAN TRIBES.—Of the funds allocated by the Corporation for provision of assistance under subsections (a) and (b) of section 121 for a fiscal year, the Corporation shall reserve 1 percent of the allocated funds for grants under section 121(a) to Indian tribes, to be allotted by the Corporation on a competitive basis in accordance with their respective needs.

(4) EFFECT OF FAILURE TO APPLY.—If a State or Indian tribe fails to apply for, or fails to give notice to the Corporation of its intent to apply for, an allotment under this subsection, the Corporation shall use the amount that would have been allotted under this subsection to the State or Indian tribe—

(A) to make grants (and provide approved national service positions in connection with such grants) to other eligible entities under section 121 that propose to carry out national service programs in the State or on behalf of the Indian tribe; and

(B) after making grants under subparagraph (A), to make a reallocation to other States and Indian tribes with approved applications under section 130.

(b) RESERVATION OF APPROVED POSITIONS.—The Corporation shall ensure that each individual selected during a fiscal year for assignment as a VISTA volunteer under title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) or as a participant in the Civilian Community Corps Demonstration Program under subtitle E shall receive the national service educational award described in subtitle D if the individual satisfies the eligibility requirements for the award. Funds for approved national service positions required by this paragraph for a fiscal year shall be deducted from the total funding for approved national service positions to be available for distribution under subsections (a) and (d) for that fiscal year.

(c) RESERVATION FOR SPECIAL ASSISTANCE.—From amounts appropriated for a fiscal year pursuant to the authorization of appropriation in section 501(a)(2), and subject to the limitation in such section, the Corporation may reserve such amount as the Corporation considers to be appropriate for the purpose of making assistance available under sections 125 and 126. The Corporation may not reserve more than \$10,000,000 for a fiscal year for disaster service under subsection (b) of section 126 or challenge grants under subsection (c) of such section.

(d) COMPETITIVE DISTRIBUTION OF REMAINING FUNDS.—

(1) STATE COMPETITION.—Of the funds allocated by the Corporation for provision of assistance under subsections (a) and (b) of section 121 for a fiscal year, the Corporation shall use not less than $33\frac{1}{3}$ percent of the allocated funds to make grants to States on a competitive basis under section 121(a).

(2) FEDERAL AGENCIES AND OTHER APPLICANTS.—The Corporation shall distribute on a competitive basis to subdivisions of States, Indian tribes, public or private nonprofit organizations (including labor organizations), institutions of higher education, and Federal agencies the remainder of the funds allocated by the Corporation for provision of assistance under section 121 for a fiscal year, after operation of paragraph (1) and subsections (a) and (c).

(3) LIMITATION ON DISTRIBUTION TO FEDERAL AGENCIES.—The Corporation may not provide more than $\frac{1}{3}$ of the funds available for competitive distribution under paragraph (2) for a fiscal year to Federal agencies under section 121(b).

(4) PRIORITY LIMITATIONS.—The Corporation may limit the categories of eligible applicants for assistance under paragraph (2) consistent with the priorities established by the Corporation under section 133(d)(2).

(5) RESERVATION OF FUNDS FOR SUPPLEMENTAL AND OUTREACH GRANTS.—

(A) RESERVATION.—From amounts appropriated for a fiscal year pursuant to the authorization of appropriation in section 501(a)(2), and subject to the limitation in such section, the Chief Executive Officer shall reserve an amount that is not less than 1 percent of such amounts (except that the amount reserved may not exceed \$5,000,000), in order to make supplemental grants as provided in subparagraph (B) and outreach grants as provided in subparagraph (C). The amount reserved pursuant to this paragraph shall be available until expended.

(B) GRANTS TO ASSIST ENTITIES IN PLACING APPLICANTS WHO ARE INDIVIDUALS WITH A DISABILITY.—

(i) IN GENERAL.—The Chief Executive Officer shall make grants from a portion of the funds reserved under subparagraph (A) to entities that—

(I) receive a grant to carry out a national service program under paragraph (1) or (2);

(II) demonstrate that the entity has received a substantial number of applications for placement in the national service program of persons who are individuals with a disability and who require a reasonable accommodation (as defined in section 101(9) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(9))), or auxiliary aids and services (as defined in section 3(1) of such Act (42 U.S.C. 12102(1))), in order to perform national service; and

(III) demonstrate that additional funding would assist the national service program in placing a substantial number of such individuals with

a disability as participants in projects carried out through the program.

(ii) REQUIREMENTS.—Funds made available through such a supplemental grant under clause (i) shall be made available for the same purposes, and subject to the same requirements, as funds made available through a grant made under paragraph (1) or (2).

(C) GRANTS FOR OUTREACH TO INDIVIDUALS WITH A DISABILITY.—

(i) IN GENERAL.—From the portion of the funds reserved under subparagraph (A) that is not used to make grants under subparagraph (B), the Chief Executive Officer shall make grants to public or private nonprofit organizations to pay for the Federal share described in section 121(e) of—

(I) providing information about the programs specified in section 193A(d)(10) to such individuals with a disability who desire to perform national service; and

(II) enabling the individuals to participate in activities carried out through such programs, which may include assisting the placement of the individuals in approved national service positions.

(ii) APPLICATION.—To be eligible to receive a grant under this subparagraph, an organization described in clause (i) shall submit an application to the Chief Executive Officer at such time, in such manner, and containing such information as the Chief Executive Officer may require.

(e) APPLICATION REQUIRED.—The allotment of assistance and approved national service positions to a State or Indian tribe under subsection (a), and the competitive distribution of assistance under subsection (d), shall be made by the Corporation only pursuant to an application submitted by a State or other applicant under section 130 and approved by the Corporation under section 133.

(f) APPROVAL OF POSITIONS SUBJECT TO AVAILABLE FUNDS.—The Corporation may not approve positions as approved national service positions under this subtitle for a fiscal year in excess of the number of such positions for which the Corporation has sufficient available funds in the National Service Trust for that fiscal year, taking into consideration funding needs for national service educational awards under subtitle D based on completed service. If appropriations are insufficient to provide the maximum allowable national service educational awards under subtitle D for all eligible participants, the Corporation is authorized to make necessary and reasonable adjustments to program rules.

(g) SPONSORSHIP OF APPROVED NATIONAL SERVICE POSITIONS.—

(1) SPONSORSHIP AUTHORIZED.—The Corporation may enter into agreements with persons or entities who offer to sponsor national service positions for which the person or entity will be responsible for supplying the funds necessary to provide a national service educational award. The distribution of these approved national service positions shall be made pursuant to the agreement, and the creation of these positions shall not be

taken into consideration in determining the number of approved national service positions to be available for distribution under this section.

(2) DEPOSIT OF CONTRIBUTION.—Funds provided pursuant to an agreement under paragraph (1) and any other funds contributed to the Corporation to support the activities of the Corporation under the national service laws shall be deposited in the National Service Trust established in section 145 until such time as the funds are needed.

SEC. 130. [42 U.S.C. 12582] APPLICATION FOR ASSISTANCE AND APPROVED NATIONAL SERVICE POSITIONS.

(a) TIME, MANNER, AND CONTENT OF APPLICATION.—To be eligible to receive assistance under section 121 or approved national service positions for participants who serve in the national service programs to be carried out using the assistance, a State, subdivision of a State, Indian tribe, public or private nonprofit organization, institution of higher education, or Federal agency shall prepare and submit to the Corporation an application at such time, in such manner, and containing such information as the Corporation may reasonably require.

(b) TYPES OF PERMISSIBLE APPLICATION INFORMATION.—In order to have adequate information upon which to consider an application under section 133, the Corporation may require the following information to be provided in an application submitted under subsection (a):

(1) A description of the national service programs proposed to be carried out directly by the applicant using assistance provided under section 121.

(2) A description of the national service programs that are selected by the applicant to receive a grant using assistance requested under section 121 and a description of the process and criteria by which the programs were selected.

(3) A description of other funding sources to be used, or sought to be used, for the national service programs referred to in paragraphs (1) and (2), and, if the application is submitted for the purpose of seeking a renewal of assistance, a description of the success of the programs in reducing their reliance on Federal funds.

(4) A description of the extent to which the projects to be conducted using the assistance will address unmet human, educational, environmental, or public safety needs and produce a direct benefit for the community in which the projects are performed.

(5) A description of the plan to be used to recruit participants, including youth who are individuals with disabilities and economically disadvantaged young men and women, for the national service programs referred to in paragraphs (1) and (2).

(6) A description of the manner in which the national service programs referred to in paragraphs (1) and (2) build on existing programs, including Federal programs.

(7) A description of the manner in which the national service programs referred to in paragraphs (1) and (2) will involve participants—

(A) in projects that build an ethic of civic responsibility and produce a positive change in the lives of participants through training and participation in meaningful service experiences and opportunities for reflection on such experiences; and

(B) in leadership positions in implementing and evaluating the program.

(8) Measurable goals for the national service programs referred to in paragraphs (1) and (2), and a strategy to achieve such goals, in terms of—

(A) the impact to be made in meeting unmet human, educational, environmental, or public safety needs; and

(B) the service experience to be provided to participants in the programs.

(9) A description of the manner and extent to which the national service programs referred to in paragraphs (1) and (2) conform to the national service priorities established by the Corporation under section 122(c).

(10) A description of the past experience of the applicant in operating a comparable program or in conducting a grant program in support of other comparable service programs.

(11) A description of the type and number of proposed service positions in which participants will receive the national service educational award described in subtitle D and a description of the manner in which approved national service positions will be apportioned by the applicant.

(12) A description of the manner and extent to which participants, representatives of the community served, community-based agencies with a demonstrated record of experience in providing services, and labor organizations contributed to the development of the national service programs referred to in paragraphs (1) and (2), including the identity of the individual representing each appropriate labor organization (if any) who was consulted and the nature of the consultation.

(13) Such other information as the Corporation may reasonably require.

(c) **REQUIRED APPLICATION INFORMATION.**—An application submitted under subsection (a) shall contain the following information:

(1) A description of the jobs or positions into which participants will be placed using the assistance provided under section 121, including descriptions of specific tasks to be performed by such participants.

(2) A description of the minimum qualifications that individuals shall meet to become participants in such programs.

(d) **APPLICATION TO RECEIVE ONLY APPROVED NATIONAL SERVICE POSITIONS.**—

(1) **APPLICABILITY OF SUBSECTION.**—This subsection shall apply in the case of an application in which—

(A) the applicant is not seeking assistance under subsection (a) or (b) of section 121, but requests national service educational awards for individuals serving in service positions described in section 123; or

(B) the applicant requests national service educational awards for service positions described in section 123, but the positions are not positions in a national service pro-

- gram described in section 122(a) for which assistance may be provided under subsection (a) or (b) of section 121.
- (2) SPECIAL APPLICATION REQUIREMENTS.—For the applications described in paragraph (1), the Corporation shall establish special application requirements in order to determine—
- (A) whether the service positions meet unmet human, educational, environmental, or public safety needs and meet the criteria for assistance under this subtitle; and
- (B) whether the Corporation should approve the positions as approved national service positions.
- (e) SPECIAL RULE FOR STATE APPLICANTS.—
- (1) SUBMISSION BY STATE COMMISSION.—The application of a State for approved national service positions or for a grant under section 121(a) shall be submitted by the State Commission.
- (2) COMPETITIVE SELECTION.—The application of a State shall contain an assurance that all assistance provided under section 121(a) to the State will be used to support national service programs that were selected by the State on a competitive basis. In making such competitive selections, the State shall seek to ensure the equitable allocation within the State of assistance and approved national service positions provided under this subtitle to the State taking into consideration such factors as the location of the programs applying to the State, population density, and economic distress.
- (3) ASSISTANCE TO NONSTATE ENTITIES.—The application of a State shall also contain an assurance that not less than 60 percent of the assistance will be used to make grants in support of national service programs other than national service programs carried out by a State agency. The Corporation may permit a State to deviate from the percentage specified by this subsection if the State has not received a sufficient number of acceptable applications to comply with the percentage.
- (f) SPECIAL RULE FOR CERTAIN APPLICANTS.—
- (1) WRITTEN CONCURRENCE.—In the case of a program applicant that proposes to also serve as the service sponsor, the application shall include the written concurrence of any local labor organization representing employees of the service sponsor who are engaged in the same or substantially similar work as that proposed to be carried out.
- (2) PROGRAM APPLICANT DEFINED.—For purposes of this subsection, the term “program applicant” means—
- (A) a State, subdivision of a State, Indian tribe, public or private nonprofit organization, institution of higher education, or Federal agency submitting an application under this section; or
- (B) an entity applying for assistance or approved national service positions through a grant program conducted using assistance provided to a State, subdivision of a State, Indian tribe, public or private nonprofit organization, institution of higher education, or Federal agency under section 121.
- (g) LIMITATION ON SAME PROJECT IN MULTIPLE APPLICATIONS.—The Corporation shall reject an application submitted under this section if a project proposed to be conducted using as-

sistance requested by the applicant is already described in another application pending before the Corporation.

SEC. 131. [42 U.S.C. 12583] NATIONAL SERVICE PROGRAM ASSISTANCE REQUIREMENTS.

(a) **IMPACT ON COMMUNITIES.**—An application submitted under section 130 shall include an assurance by the applicant that any national service program carried out by the applicant using assistance provided under section 121 and any national service program supported by a grant made by the applicant using such assistance will—

(1) address unmet human, educational, environmental, or public safety needs through services that provide a direct benefit to the community in which the service is performed; and

(2) comply with the nonduplication and nondisplacement requirements of section 177 and the grievance procedure requirements of section 176(f).

(b) **IMPACT ON PARTICIPANTS.**—An application submitted under section 130 shall also include an assurance by the applicant that any national service program carried out by the applicant using assistance provided under section 121 and any national service program supported by a grant made by the applicant using such assistance will—

(1) provide participants in the national service program with the training, skills, and knowledge necessary for the projects that participants are called upon to perform;

(2) provide support services to participants, such as the provision of appropriate information and support—

(A) to those participants who are completing a term of service and making the transition to other educational and career opportunities; and

(B) to those participants who are school dropouts in order to assist those participants in earning the equivalent of a high school diploma; and

(3) provide, if appropriate, structured opportunities for participants to reflect on their service experiences.

(c) **CONSULTATION.**—An application submitted under section 130 shall also include an assurance by the applicant that any national service program carried out by the applicant using assistance provided under section 121 and any national service program supported by a grant made by the applicant using such assistance will—

(1) provide in the design, recruitment, and operation of the program for broad-based input from—

(A) the community served and potential participants in the program; and

(B) community-based agencies with a demonstrated record of experience in providing services and local labor organizations representing employees of service sponsors, if these entities exist in the area to be served by the program;

(2) prior to the placement of participants, consult with the appropriate local labor organization, if any, representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program to en-

sure compliance with the nondisplacement requirements specified in section 177; and

(3) in the case of a program that is not funded through a State, consult with and coordinate activities with the State Commission for the State in which the program operates.

(d) EVALUATION AND PERFORMANCE GOALS.—

(1) IN GENERAL.—An application submitted under section 130 shall also include an assurance by the applicant that the applicant will—

(A) arrange for an independent evaluation of any national service program carried out using assistance provided to the applicant under section 121 or, with the approval of the Corporation, conduct an internal evaluation of the program;

(B) apply measurable performance goals and evaluation methods (such as the use of surveys of participants and persons served), which are to be used as part of such evaluation to determine the impact of the program—

(i) on communities and persons served by the projects performed by the program;

(ii) on participants who take part in the projects; and

(iii) in such other areas as the Corporation may require; and

(C) cooperate with any evaluation activities undertaken by the Corporation.

(2) EVALUATION.—Subject to paragraph (3), the Corporation shall develop evaluation criteria and performance goals applicable to all national service programs carried out with assistance provided under section 121.

(3) ALTERNATIVE EVALUATION REQUIREMENTS.—The Corporation may establish alternative evaluation requirements for national service programs based upon the amount of assistance received under section 121 or received by a grant made by a recipient of assistance under such section. The determination of whether a national service program is covered by this paragraph shall be made in such manner as the Corporation may prescribe.

(e) LIVING ALLOWANCES AND OTHER INSERVICE BENEFITS.—Except as provided in section 140(c), an application submitted under section 130 shall also include an assurance by the applicant that the applicant will—

(1) ensure the provision of a living allowance and other benefits specified in section 140 to participants in any national service program carried out by the applicant using assistance provided under section 121; and

(2) require that each national service program that receives a grant from the applicant using such assistance will also provide a living allowance and other benefits specified in section 140 to participants in the program.

(f) SELECTION OF PARTICIPANTS FROM INDIVIDUALS RECRUITED BY CORPORATION OR STATE COMMISSIONS.—The Corporation may also require an assurance by the applicant that any national service program carried out by the applicant using assistance provided under section 121 and any national service program supported by

a grant made by the applicant using such assistance will select a portion of the participants for the program from among prospective participants recruited by the Corporation or State Commissions under section 138(d). The Corporation may specify a minimum percentage of participants to be selected from the national leadership pool established under section 138(e) and may vary the percentage for different types of national service programs.

SEC. 132. [42 U.S.C. 12584] INELIGIBLE SERVICE CATEGORIES.

(a) **IN GENERAL.**—Except as provided in subsection (b), an application submitted to the Corporation under section 130 shall include an assurance by the applicant that any national service program carried out using assistance provided under section 121 and any approved national service position provided to an applicant will not be used to perform service that provides a direct benefit to any—

- (1) business organized for profit;
- (2) labor union;
- (3) partisan political organization;
- (4) organization engaged in religious activities, unless such service does not involve the use of assistance provided under section 121 or participants—
 - (A) to give religious instruction;
 - (B) to conduct worship services;
 - (C) to provide instruction as part of a program that includes mandatory religious education or worship;
 - (D) to construct or operate facilities devoted to religious instruction or worship or to maintain facilities primarily or inherently devoted to religious instruction or worship; or
 - (E) to engage in any form of proselytization; or
- (5) nonprofit organization that fails to comply with the restrictions contained in section 501(c) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)), except that nothing in this section shall be construed to prevent participants from engaging in advocacy activities undertaken at their own initiative.

(b) **REGIONAL CORPORATION.**—The requirement of subsection (a) relating to an assurance regarding direct benefits to businesses organized for profit shall not apply with respect to a Regional Corporation, as defined in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)), that is established in accordance with such Act as a for-profit corporation but that is engaging in nonprofit activities.

SEC. 133. [42 U.S.C. 12585] CONSIDERATION OF APPLICATIONS.

(a) **CORPORATION CONSIDERATION OF CERTAIN CRITERIA.**—The Corporation shall apply the criteria described in subsections (c) and (d) in determining whether—

- (1) to approve an application submitted under section 130 and provide assistance under section 121 to the applicant; and
- (2) to approve service positions described in the application as national service positions that include the national service educational award described in subtitle D and provide such approved national service positions to the applicant.

(b) **APPLICATION TO SUBGRANTS.**—

(1) IN GENERAL.—A State or other entity that uses assistance provided under section 121(a) to support national service programs selected on a competitive basis to receive a share of the assistance shall use the criteria described in subsections (c) and (d) when considering an application submitted by a national service program to receive a portion of such assistance or an approved national service position.

(2) CONTENTS.—The application of the State or other entity under section 130 shall contain—

(A) a certification that the State or other entity used these criteria in the selection of national service programs to receive assistance;

(B) a description of the jobs or positions into which participants will be placed using such assistance, including descriptions of specific tasks to be performed by such participants; and

(C) a description of the minimum qualifications that individuals shall meet to become participants in such programs.

(c) ASSISTANCE CRITERIA.—The criteria required to be applied in evaluating applications submitted under section 130 are as follows:

(1) The quality of the national service program proposed to be carried out directly by the applicant or supported by a grant from the applicant.

(2) The innovative aspects of the national service program, and the feasibility of replicating the program.

(3) The sustainability of the national service program, based on evidence such as the existence—

(A) of strong and broad-based community support for the program; and

(B) of multiple funding sources or private funding for the program.

(4) The quality of the leadership of the national service program, the past performance of the program, and the extent to which the program builds on existing programs.

(5) The extent to which participants of the national service program are recruited from among residents of the communities in which projects are to be conducted, and the extent to which participants and community residents are involved in the design, leadership, and operation of the program.

(6) The extent to which projects would be conducted in the following areas where they are needed most:

(A) Communities designated as empowerment zones or redevelopment areas, targeted for special economic incentives, or otherwise identifiable as having high concentrations of low-income people.

(B) Areas that are environmentally distressed.

(C) Areas adversely affected by Federal actions related to the management of Federal lands that result in significant regional job losses and economic dislocation.

(D) Areas adversely affected by reductions in defense spending or the closure or realignment of military installations.

(E) Areas that have an unemployment rate greater than the national average unemployment for the most recent 12 months for which satisfactory data are available.

(7) In the case of applicants other than States, the extent to which the application is consistent with the application under section 130 of the State in which the projects would be conducted.

(8) Such other criteria as the Corporation considers to be appropriate.

(d) OTHER CONSIDERATIONS.—

(1) GEOGRAPHIC DIVERSITY.—The Corporation shall ensure that recipients of assistance provided under section 121 are geographically diverse and include projects to be conducted in those urban and rural areas in a State with the highest rates of poverty.

(2) PRIORITIES.—The Corporation may designate, under such criteria as may be established by the Corporation, certain national service programs or types of national service programs described in section 122(a) for priority consideration in the competitive distribution of funds under section 129(d)(2). In designating national service programs to receive priority, the Corporation may include—

(A) national service programs carried out by another Federal agency;

(B) national service programs that conform to the national service priorities in effect under section 122(c);

(C) innovative national service programs;

(D) national service programs that are well established in one or more States at the time of the application and are proposed to be expanded to additional States using assistance provided under section 121;

(E) grant programs in support of other national service programs if the grant programs are to be conducted by nonprofit organizations with a demonstrated and extensive expertise in the provision of services to meet human, educational, environmental, or public safety needs;

(F) professional corps programs described in section 122(a)(8); and

(G) programs that—

(i) received funding under subtitle D of this Act, as in effect on the day before the date of enactment of this subtitle;

(ii) the Corporation determines to meet the requirements of sections 142 (other than subsection (g)), 143, and 148 through 150 of this Act, as in effect on such day, in addition to the requirements of this subtitle; and

(iii) include an evaluation component.

(3) ADDITIONAL PRIORITY.—In making a competitive distribution of funds under section 129(d)(2), the Corporation may give priority consideration to a national service program that is—

(A) proposed in an application submitted by a State Commission; and

(B) not one of the types of programs described in paragraph (2), if the State Commission provides an adequate explanation of the reasons why it should not be a priority of such State to carry out any of such types of programs in the State.

(4) REVIEW PANEL.—The Corporation shall—

(A) establish panels of experts for the purpose of securing recommendations on applications submitted under section 130 for more than \$250,000 in assistance, or for national service positions that would require more than \$250,000 in national service educational awards; and

(B) consider the opinions of such panels prior to making such determinations.

(e) EMPHASIS ON AREAS MOST IN NEED.—In making assistance available under section 121 and in providing approved national service positions under section 123, the Corporation shall ensure that not less than 50 percent of the total amount of assistance to be distributed to States under subsections (a) and (d)(1) of section 129 for a fiscal year is provided to carry out or support national service programs and projects that—

(1) are conducted in any of the areas described in subsection (c)(6) or on Federal or other public lands, to address unmet human, educational, environmental, or public safety needs in such areas or on such lands; and

(2) place a priority on the recruitment of participants who are residents of any of such areas or Federal or other public lands.

(f) REJECTION OF STATE APPLICATIONS.—

(1) NOTIFICATION OF STATE APPLICANTS.—If the Corporation rejects an application submitted by a State Commission under section 130 for funds described in section 129(a)(1), the Corporation shall promptly notify the State Commission of the reasons for the rejection of the application.

(2) RESUBMISSION AND RECONSIDERATION.—The Corporation shall provide a State Commission notified under paragraph (1) with a reasonable opportunity to revise and resubmit the application. At the request of the State Commission, the Corporation shall provide technical assistance to the State Commission as part of the resubmission process. The Corporation shall promptly reconsider an application resubmitted under this paragraph.

(3) REALLOTMENT.—The amount of any State's allotment under section 129(a) for a fiscal year that the Corporation determines will not be provided for that fiscal year shall be available for distribution by the Corporation as provided in paragraph (3) of such subsection.

PART III—NATIONAL SERVICE PARTICIPANTS

SEC. 137. [42 U.S.C. 12591] DESCRIPTION OF PARTICIPANTS.

(a) IN GENERAL.—For purposes of this subtitle, an individual shall be considered to be a participant in a national service program carried out using assistance provided under section 121 if the individual—

(1) meets such eligibility requirements, directly related to the tasks to be accomplished, as may be established by the program;

(2) is selected by the program to serve in a position with the program;

(3) will serve in the program for a term of service specified in section 139 to be performed before, during, or after attendance at an institution of higher education;

(4) is 17 years of age or older at the time the individual begins the term of service;

(5) has received a high school diploma or its equivalent, agrees to obtain a high school diploma or its equivalent (unless this requirement is waived based on an individual education assessment conducted by the program) and the individual did not drop out of an elementary or secondary school to enroll in the program, or is enrolled in an institution of higher education on an ability to benefit basis and is considered eligible for funds under section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091); and

(6) is a citizen or national of the United States or lawful permanent resident alien of the United States.

(b) SPECIAL RULES FOR CERTAIN YOUTH PROGRAMS.—An individual shall be considered to be a participant in a youth corps program described in section 122(a)(2) or a program described in section 122(a)(9) that is carried out with assistance provided under section 121(a) if the individual—

(1) satisfies the requirements specified in subsection (a), except paragraph (4) of such subsection; and

(2) is between the ages of 16 and 25, inclusive, at the time the individual begins the term of service.

(c) WAIVER.—The Corporation may waive the requirements of subsection (a)(5) with respect to an individual if the program in which the individual seeks to become a participant conducts an independent evaluation demonstrating that the individual is incapable of obtaining a high school diploma or its equivalent.

SEC. 138. [42 U.S.C. 12592] SELECTION OF NATIONAL SERVICE PARTICIPANTS.

(a) SELECTION PROCESS.—Subject to subsections (b) and (c) and section 131(f), the actual recruitment and selection of an individual to serve in a national service program receiving assistance under section 121 or to fill an approved national service position shall be conducted by the State, subdivision of a State, Indian tribe, public or private nonprofit organization, institution of higher education, Federal agency, or other entity to which the assistance and approved national service positions are provided.

(b) NONDISCRIMINATION AND NONPOLITICAL SELECTION OF PARTICIPANTS.—The recruitment and selection of individuals to serve in national service programs receiving assistance under section 121 or to fill approved national service positions shall be consistent with the requirements of section 175.

(c) SECOND TERM.—Acceptance into a national service program to serve a second term of service under section 139 shall only be available to individuals who perform satisfactorily in their first term of service.

(d) **RECRUITMENT AND PLACEMENT.**—The Corporation and each State Commission shall establish a system to recruit individuals who desire to perform national service and to assist the placement of these individuals in approved national service positions, which may include positions available under titles I and II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.). The Corporation and State Commissions shall disseminate information regarding available approved national service positions through cooperation with secondary schools, institutions of higher education, employment service offices, State vocational rehabilitation agencies within the meaning of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) and other State agencies that primarily serve individuals with disabilities, and other appropriate entities, particularly those organizations that provide outreach to disadvantaged youths and youths who are individuals with disabilities.

(e) **NATIONAL LEADERSHIP POOL.**—

(1) **SELECTION AND TRAINING.**—From among individuals recruited under subsection (d), the Corporation may select individuals with significant leadership potential, as determined by the Corporation, to receive special training to enhance their leadership ability. The leadership training shall be provided by the Corporation directly or through a grant or contract.

(2) **EMPHASIS ON CERTAIN INDIVIDUALS.**—In selecting individuals to receive leadership training under this subsection, the Corporation shall make special efforts to select individuals who have served—

(A) in the Peace Corps;

(B) as VISTA volunteers;

(C) as participants in national service programs receiving assistance under section 121;

(D) as participants in programs receiving assistance under subtitle D of the National and Community Service Act of 1990, as in effect on the day before the date of enactment of this subtitle; or

(E) as members of the Armed Forces of the United States and who were honorably discharged from such service.

(3) **ASSIGNMENT.**—At the request of a program that receives assistance under the national service laws, the Corporation may assign an individual who receives leadership training under paragraph (1) to work with the program in a leadership position and carry out assignments not otherwise performed by regular participants. An individual assigned to a program shall be considered to be a participant of the program.

(f) **EVALUATION OF SERVICE.**—The Corporation shall issue regulations regarding the manner and criteria by which the service of a participant shall be evaluated to determine whether the service is satisfactory and successful for purposes of eligibility for a second term of service or a national service educational award.

SEC. 139. [42 U.S.C. 12593] TERMS OF SERVICE.

(a) **IN GENERAL.**—As a condition of receiving a national service education award under subtitle D, a participant in an approved national service position shall be required to perform full- or part-

time national service for at least one term of service specified in subsection (b).

(b) TERM OF SERVICE.—

(1) FULL-TIME SERVICE.—An individual performing full-time national service in an approved national service position shall agree to participate in the program sponsoring the position for not less than 1,700 hours during a period of not less than 9 months and not more than 1 year.

(2) PART-TIME SERVICE.—Except as provided in paragraph (3), an individual performing part-time national service in an approved national service position shall agree to participate in the program sponsoring the position for not less than 900 hours during a period of—

(A) not more than 2 years; or

(B) not more than 3 years if the individual is enrolled in an institute of higher education while performing all or a portion of the service.

(3) REDUCTION IN HOURS OF PART-TIME SERVICE.—The Corporation may reduce the number of hours required to be served to successfully complete part-time national service to a level determined by the Corporation, except that any reduction in the required term of service shall include a corresponding reduction in the amount of any national service educational award that may be available under subtitle D with regard to that service.

(c) RELEASE FROM COMPLETING TERM OF SERVICE.—

(1) RELEASE AUTHORIZED.—A recipient of assistance under section 121 or a program sponsoring an approved national service position may release a participant from completing a term of service in the position—

(A) for compelling personal circumstances as demonstrated by the participant; or

(B) for cause.

(2) EFFECT OF RELEASE FOR COMPELLING CIRCUMSTANCES.—If a participant eligible for release under paragraph (1)(A) is serving in an approved national service position, the recipient of assistance under section 121 or a program sponsoring an approved national service position may elect—

(A) to grant such release and provide to the participant that portion of the national service educational award corresponding to the portion of the term of service actually completed, as provided in section 147(c); or

(B) to permit the participant to temporarily suspend performance of the term of service for a period of up to 2 years (and such additional period as the Corporation may allow for extenuating circumstances) and, upon completion of such period, to allow return to the program with which the individual was serving in order to complete the remainder of the term of service and obtain the entire national service educational award.

(3) EFFECT OF RELEASE FOR CAUSE.—A participant released for cause may not receive any portion of the national service educational award.

SEC. 140. [42 U.S.C. 12594] LIVING ALLOWANCES FOR NATIONAL SERVICE PARTICIPANTS.**(a) PROVISION OF LIVING ALLOWANCE.—**

(1) **LIVING ALLOWANCE REQUIRED.**—Subject to paragraph (3), a national service program carried out using assistance provided under section 121 shall provide to each participant who participates on a full-time basis in the program a living allowance in an amount equal to or greater than the average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955).

(2) **LIMITATION ON FEDERAL SHARE.**—The amount of the annual living allowance provided under paragraph (1) that may be paid using assistance provided under section 121 and using any other Federal funds shall not exceed 85 percent of the total average annual provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955).

(3) **MAXIMUM LIVING ALLOWANCE.**—Except as provided in subsection (c), the total amount of an annual living allowance that may be provided to a participant in a national service program shall not exceed 200 percent of the average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955).

(4) **PRORATION OF LIVING ALLOWANCE.**—The amount provided as a living allowance under this subsection shall be prorated in the case of a participant who is authorized to serve a reduced term of service under section 139(b)(3).

(5) **WAIVER OR REDUCTION OF LIVING ALLOWANCE.**—The Corporation may waive or reduce the requirement of paragraph (1) with respect to such national service program if such program demonstrates that—

(A) such requirement is inconsistent with the objectives of the program; and

(B) the amount of the living allowance that will be provided to each full-time participant is sufficient to meet the necessary costs of living (including food, housing, and transportation) in the area in which the program is located.

(6) **EXEMPTION.**—The requirement of paragraph (1) shall not apply to any program that was in existence on the date of the enactment of the National and Community Service Trust Act of 1993.

(b) **COVERAGE OF CERTAIN EMPLOYMENT-RELATED TAXES.**—To the extent a national service program that receives assistance under section 121 is subject, with respect to the participants in the program, to the taxes imposed on an employer under sections 3111 and 3301 of the Internal Revenue Code of 1986 (26 U.S.C. 3111, 3301) and taxes imposed on an employer under a workmen's compensation act, the assistance provided to the program under section 121 shall include an amount sufficient to cover 85 percent of such taxes based upon the lesser of—

(1) the total average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955); and

(2) the annual living allowance established by the program.

(c) EXCEPTION FROM MAXIMUM LIVING ALLOWANCE FOR CERTAIN ASSISTANCE.—A professional corps program described in section 122(a)(8) that desires to provide a living allowance in excess of the maximum allowance authorized in subsection (a)(3) may still apply for such assistance, except that—

(1) any assistance provided to the applicant under section 121 may not be used to pay for any portion of the allowance;

(2) the applicant shall apply for such assistance only by submitting an application to the Corporation for assistance on a competitive basis; and

(3) the national service program shall be operated directly by the applicant and shall meet urgent, unmet human, educational, environmental, or public safety needs, as determined by the Corporation.

(d) HEALTH INSURANCE.—

(1) IN GENERAL.—A State or other recipient of assistance under section 121 shall provide a basic health care policy for each full-time participant in a national service program carried out or supported using the assistance, if the participant is not otherwise covered by a health care policy. Not more than 85 percent of the cost of a premium shall be provided by the Corporation, with the remaining cost paid by the entity receiving assistance under section 121. The Corporation shall establish minimum standards that all plans must meet in order to qualify for payment under this part, any circumstances in which an alternative health care policy may be substituted for the basic health care policy, and mechanisms to prohibit participants from dropping existing coverage.

(2) OPTION.—A State or other recipient of assistance under section 121 may elect to provide from its own funds a health care policy for participants that does not meet all of the standards established by the Corporation if the fair market value of such policy is equal to or greater than the fair market value of a plan that meets the minimum standards established by the Corporation, and is consistent with other applicable laws.

(e) CHILD CARE.—

(1) AVAILABILITY.—A State or other recipient of assistance under section 121 shall—

(A) make child care available for children of each full-time participant who needs child care in order to participate in a national service program carried out or supported by the recipient using the assistance; or

(B) provide a child care allowance to each full-time participant in a national service program who needs such assistance in order to participate in the program.

(2) GUIDELINES.—The Corporation shall establish guidelines regarding the circumstances under which child care shall be made available under this subsection and the value of any allowance to be provided.

(f) **INDIVIDUALIZED SUPPORT SERVICES.**—A State or other recipient of assistance under section 121 shall provide reasonable accommodation, including auxiliary aids and services (as defined in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(1))), based on the individualized need of a participant who is a qualified individual with a disability (as defined in section 101(8) of such Act (42 U.S.C. 12111(8))).

(g) **WAIVER OF LIMITATION ON FEDERAL SHARE.**—The Corporation may waive in whole or in part the limitation on the Federal share specified in this section with respect to a particular national service program in any fiscal year if the Corporation determines that such a waiver would be equitable due to a lack of available financial resources at the local level.

(h) **LIMITATION ON NUMBER OF TERMS OF SERVICE FOR FEDERALLY SUBSIDIZED LIVING ALLOWANCE.**—No national service program may use assistance provided under section 121, or any other Federal funds, to provide a living allowance under subsection (a), a health care policy under subsection (d), or child care or a child care allowance under subsection (e), to an individual for a third, or subsequent, term of service described in section 139(b) by the individual in a national service program carried out under this subtitle.

SEC. 141. [42 U.S.C. 12595] NATIONAL SERVICE EDUCATIONAL AWARDS.

(a) **ELIGIBILITY GENERALLY.**—A participant in a national service program carried out using assistance provided to an applicant under section 121 shall be eligible for the national service educational award described in subtitle D if the participant—

- (1) serves in an approved national service position; and
- (2) satisfies the eligibility requirements specified in section 146 with respect to service in that approved national service position.

(b) **SPECIAL RULE FOR VISTA VOLUNTEERS.**—A VISTA volunteer who serves in an approved national service position shall be ineligible for a national service educational award if the VISTA volunteer accepts the stipend authorized under section 105(a)(1) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955(a)(1)).

Subtitle D—National Service Trust and Provision of National Service Educational Awards

SEC. 145. [42 U.S.C. 12601] ESTABLISHMENT OF THE NATIONAL SERVICE TRUST.

(a) **ESTABLISHMENT.**—There is established in the Treasury of the United States an account to be known as the National Service Trust. The Trust shall consist of—

- (1) from the amounts appropriated to the Corporation and made available to carry out this subtitle pursuant to section 501(a)(2), such amounts as the Corporation may designate to be available for the payment of—
 - (A) national service educational awards; and
 - (B) interest expenses pursuant to section 148(e);
- (2) any amounts received by the Corporation as gifts, bequests, devises, or otherwise pursuant to section 196(a)(2); and

(3) the interest on, and proceeds from the sale or redemption of, any obligations held by the Trust.

(b) INVESTMENT OF TRUST.—It shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated to the Trust. Except as otherwise expressly provided in instruments concerning a gift, bequest, devise, or other donation and agreed to by the Corporation, such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired on original issue at the issue price or by purchase of outstanding obligations at the market price. Any obligation acquired by the Trust may be sold by the Secretary at the market price.

(c) EXPENDITURES FROM TRUST.—Amounts in the Trust shall be available, to the extent provided for in advance by appropriation, for payments of national service educational awards in accordance with section 148.

(d) REPORTS TO CONGRESS ON RECEIPTS AND EXPENDITURES.—Not later than March 1 of each year, the Corporation shall submit a report to the Congress on the financial status of the Trust during the preceding fiscal year. Such report shall—

(1) specify the amount deposited to the Trust from the most recent appropriation to the Corporation, the amount received by the Corporation as gifts, bequests, devises, or otherwise pursuant to section 196(a)(2) during the period covered by the report, and any amounts obtained by the Trust pursuant to subsection (a)(3);

(2) identify the number of individuals who are currently performing service to qualify, or have qualified, for national service educational awards;

(3) identify the number of individuals whose expectation to receive national service educational awards during the period covered by the report—

(A) has been reduced pursuant to section 147(c); or

(B) has lapsed pursuant to section 146(d); and

(4) estimate the number of additional approved national service positions that the Corporation will be able to make available under subtitle C on the basis of any accumulated surplus in the Trust above the amount required to provide national service educational awards to individuals identified under paragraph (2), including any amounts available as a result of the circumstances referred to in paragraph (3).

SEC. 146. [42 U.S.C. 12602] INDIVIDUALS ELIGIBLE TO RECEIVE A NATIONAL SERVICE EDUCATIONAL AWARD FROM THE TRUST.

(a) ELIGIBLE INDIVIDUALS.—An individual shall receive a national service educational award from the National Service Trust if the individual—

(1) successfully completes the required term of service described in subsection (b) in an approved national service position;

(2) was 17 years of age or older at the time the individual began serving in the approved national service position or was an out-of-school youth serving in an approved national service

position with a youth corps program described in section 122(a)(2) or a program described in section 122(a)(9);

(3) at the time the individual uses the national service educational award—

(A) has received a high school diploma, or the equivalent of such diploma;

(B) is enrolled at an institution of higher education on the basis of meeting the standard described in paragraph (1) or (2) of subsection (a) of section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091) and meets the requirements of subsection (a) of such section; or

(C) has received a waiver described in section 137(c); and

(4) is a citizen or national of the United States or lawful permanent resident alien of the United States.

(b) **TERM OF SERVICE.**—The term of service for an approved national service position shall not be less than the full- or part-time term of service specified in section 139(b).

(c) **LIMITATION ON NUMBER OF TERMS OF SERVICE FOR AWARDS.**—Although an individual may serve more than 2 terms of service described in subsection (b) in an approved national service position, the individual shall receive a national service educational award from the National Service Trust only on the basis of the first and second of such terms of service.

(d) **TIME FOR USE OF EDUCATIONAL AWARD.**—

(1) **SEVEN-YEAR REQUIREMENT.**—An individual eligible to receive a national service educational award under this section may not use such award after the end of the 7-year period beginning on the date the individual completes the term of service in an approved national service position that is the basis of the award.

(2) **EXCEPTION.**—The Corporation may extend the period within which an individual may use a national service educational award if the Corporation determines that the individual—

(A) was unavoidably prevented from using the national service educational award during the original 7-year period; or

(B) performed another term of service in an approved national service position during that period.

(e) **SUSPENSION OF ELIGIBILITY FOR DRUG-RELATED OFFENSES.**—

(1) **IN GENERAL.**—An individual who, after qualifying under this section as an eligible individual, has been convicted under any Federal or State law of the possession or sale of a controlled substance shall not be eligible to receive a national service educational award during the period beginning on the date of such conviction and ending after the interval specified in the following table:

If convicted of:		
The possession of a controlled substance:		Ineligibility period is:
1st conviction		1 year
2nd conviction		2 years
3rd conviction		indefinite
The sale of a controlled substance:		
1st conviction		2 years
2nd conviction		indefinite

(2) REHABILITATION.—An individual whose eligibility has been suspended under paragraph (1) shall resume eligibility before the end of the period determined under such paragraph if the individual satisfactorily completes a drug rehabilitation program that complies with such criteria as the Corporation shall prescribe for purposes of this paragraph.

(3) FIRST CONVICTIONS.—An individual whose eligibility has been suspended under paragraph (1) and is convicted of a first offense may resume eligibility before the end of the period determined under such paragraph if the individual demonstrates that he or she has enrolled or been accepted for enrollment in a drug rehabilitation program described in paragraph (2).

(4) DEFINITIONS.—As used in this subsection, the term “controlled substance” has the meaning given in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

(5) EFFECTIVE DATE.—This subsection shall be effective upon publication by the Corporation in the Federal Register of criteria prescribed under paragraph (2).

(f) AUTHORITY TO ESTABLISH DEMONSTRATION PROGRAMS.—The Corporation may establish by regulation demonstration programs for the creation and evaluation of innovative volunteer and community service programs.

SEC. 147. [42 U.S.C. 12603] DETERMINATION OF THE AMOUNT OF THE NATIONAL SERVICE EDUCATIONAL AWARD.

(a) AMOUNT FOR FULL-TIME NATIONAL SERVICE.—Except as provided in subsection (c), an individual described in section 146(a) who successfully completes a required term of full-time national service in an approved national service position shall receive a national service educational award having a value, for each of not more than 2 of such terms of service, equal to 90 percent of—

(1) one-half of an amount equal to the aggregate basic educational assistance allowance provided in section 3015(b)(1) of title 38, United States Code (as in effect on July 28, 1993), for the period referred to in section 3013(a)(1) of such title (as in effect on July 28, 1993), for a member of the Armed Forces who is entitled to such an allowance under section 3011 of such title and whose initial obligated period of active duty is 2 years; less

(2) one-half of the aggregate basic contribution required to be made by the member in section 3011(b) of such title (as in effect on July 28, 1993).

(b) AMOUNT FOR PART-TIME NATIONAL SERVICE.—Except as provided in subsection (c), an individual described in section 146(a) who successfully completes a required term of part-time national service in an approved national service position shall receive a national service educational award having a value, for each of not

more than 2 of such terms of service, equal to 50 percent of value of the national service educational award determined under subsection (a).

(c) AWARD FOR PARTIAL COMPLETION OF SERVICE.—If an individual serving in an approved national service position is released in accordance with section 139(c)(1)(A) from completing the full-time or part-time term of service agreed to by the individual, the Corporation may provide the individual with that portion of the national service educational award approved for the individual that corresponds to the quantity of the term of service actually completed by the individual.

SEC. 148. [42 U.S.C. 12604] DISBURSEMENT OF NATIONAL SERVICE EDUCATIONAL AWARDS.

(a) IN GENERAL.—Amounts in the Trust shall be available—

(1) to repay student loans in accordance with subsection (b);

(2) to pay all or part of the cost of attendance at an institution of higher education in accordance with subsection (c);

(3) to pay expenses incurred in participating in an approved school-to-work program in accordance with subsection (d); and

(4) to pay interest expenses in accordance with regulations prescribed pursuant to subsection (e).

(b) USE OF EDUCATIONAL AWARD TO REPAY OUTSTANDING STUDENT LOANS.—

(1) APPLICATION BY ELIGIBLE INDIVIDUALS.—An eligible individual under section 146 who desires to apply the national service educational award of the individual to the repayment of qualified student loans shall submit, in a manner prescribed by the Corporation, an application to the Corporation that—

(A) identifies, or permits the Corporation to identify readily, the holder or holders of such loans;

(B) indicates, or permits the Corporation to determine readily, the amounts of principal and interest outstanding on the loans;

(C) specifies, if the outstanding balance is greater than the amount disbursed under paragraph (2), which of the loans the individual prefers to be paid by the Corporation; and

(D) contains or is accompanied by such other information as the Corporation may require.

(2) DISBURSEMENT OF REPAYMENTS.—Upon receipt of an application from an eligible individual of an application that complies with paragraph (1), the Corporation shall, as promptly as practicable consistent with paragraph (5), disburse the amount of the national service educational award that the eligible individual has earned. Such disbursement shall be made by check or other means that is payable to the holder of the loan and requires the endorsement or other certification by the eligible individual.

(3) APPLICATION OF DISBURSED AMOUNTS.—If the amount disbursed under paragraph (2) is less than the principal and accrued interest on any qualified student loan, such amount shall be applied according to the specified priorities of the individual.

(4) REPORTS BY HOLDERS.—Any holder receiving a loan payment pursuant to this subsection shall submit to the Corporation such information as the Corporation may require to verify that such payment was applied in accordance with this subsection and any regulations prescribed to carry out this subsection.

(5) NOTIFICATION OF INDIVIDUAL.—The Corporation upon disbursing the national service educational award, shall notify the individual of the amount paid for each outstanding loan and the date of payment.

(6) AUTHORITY TO AGGREGATE PAYMENTS.—The Corporation may, by regulation, provide for the aggregation of payments to holders under this subsection.

(7) DEFINITION OF QUALIFIED STUDENT LOANS.—As used in this subsection, the term “qualified student loans” means—

(A) any loan made, insured, or guaranteed pursuant to title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), other than a loan to a parent of a student pursuant to section 428B of such Act (20 U.S.C. 1078–2); and

(B) any loan made pursuant to title VII or VIII of the Public Health Service Act (42 U.S.C. 292a et seq.).

(8) DEFINITION OF HOLDER.—As used in this subsection, the term “holder” with respect to any eligible loan means the original lender or, if the loan is subsequently sold, transferred, or assigned to some other person, and such other person acquires a legally enforceable right to receive payments from the borrower, such other person.

(c) USE OF EDUCATIONAL AWARDS TO PAY CURRENT EDUCATIONAL EXPENSES.—

(1) APPLICATION BY ELIGIBLE INDIVIDUAL.—An eligible individual under section 146 who desires to apply the individual’s national service educational award to the payment of current full-time or part-time educational expenses shall, on a form prescribed by the Corporation, submit an application to the institution of higher education in which the student will be enrolled that contains such information as the Corporation may require to verify the individual’s eligibility.

(2) SUBMISSION OF REQUESTS FOR PAYMENT BY INSTITUTIONS.—An institution of higher education that receives one or more applications that comply with paragraph (1) shall submit to the Corporation a statement, in a manner prescribed by the Corporation, that—

(A) identifies each eligible individual filing an application under paragraph (1) for a disbursement of the individual’s national service educational award under this subsection;

(B) specifies the amounts for which such eligible individuals are, consistent with paragraph (6), qualified for disbursement under this subsection;

(C) certifies that—

(i) the institution of higher education has in effect a program participation agreement under section 487 of the Higher Education Act of 1965 (20 U.S.C. 1094);

(ii) the institution's eligibility to participate in any of the programs under title IV of such Act (20 U.S.C. 1070 et seq.) has not been limited, suspended, or terminated; and

(iii) individuals using national service educational awards received under this subtitle to pay for educational costs do not comprise more than 15 percent of the total student population of the institution; and

(D) contains such provisions concerning financial compliance as the Corporation may require.

(3) DISBURSEMENT OF PAYMENTS.—Upon receipt of a statement from an institution of higher education that complies with paragraph (2), the Corporation shall, subject to paragraph (4), disburse the total amount of the national service educational awards for which eligible individuals who have submitted applications to that institution under paragraph (1) are scheduled to receive. Such disbursement shall be made by check or other means that is payable to the institution and requires the endorsement or other certification by the eligible individual.

(4) MULTIPLE DISBURSEMENTS REQUIRED.—The total amount required to be disbursed to an institution of higher education under paragraph (3) for any period of enrollment shall be disbursed by the Corporation in 2 or more installments, none of which exceeds $\frac{1}{2}$ of such total amount. The interval between the first and second such installment shall not be less than $\frac{1}{2}$ of such period of enrollment, except as necessary to permit the second installment to be paid at the beginning of the second semester, quarter, or similar division of such period of enrollment.

(5) REFUND RULES.—The Corporation shall, by regulation, provide for the refund to the Corporation (and the crediting to the national service educational award of an eligible individual) of amounts disbursed to institutions for the benefit of eligible individuals who withdraw or otherwise fail to complete the period of enrollment for which the assistance was provided. Such regulations shall be consistent with the fair and equitable refund policies required of institutions pursuant to section 484B of the Higher Education Act of 1965 (20 U.S.C. 1091b). Amounts refunded to the Trust pursuant to this paragraph may be used by the Corporation to fund additional approved national service positions under subtitle C.

(6) MAXIMUM AWARD.—The portion of an eligible individual's total available national service educational award that may be disbursed under this subsection for any period of enrollment shall not exceed the difference between—

(A) the eligible individual's cost of attendance for such period of enrollment, determined in accordance with section 472 of the Higher Education Act of 1965 (20 U.S.C. 10871l); and

(B) the sum of—

(i) the student's estimated financial assistance for such period under part A of title IV of such Act (20 U.S.C. 1070 et seq.); and

(ii) the student's veterans' education benefits, determined in accordance with section 480(c) of such Act (20 U.S.C. 1087vv(c)).

(d) USE OF EDUCATIONAL AWARD TO PARTICIPATE IN APPROVED SCHOOL-TO-WORK PROGRAMS.—The Corporation shall by regulation provide for the payment of national service educational awards to permit eligible individuals to participate in school-to-work programs approved by the Secretaries of Labor and Education.

(e) INTEREST PAYMENTS DURING FORBEARANCE ON LOAN REPAYMENT.—The Corporation shall provide by regulation for the payment on behalf of an eligible individual of interest that accrues during a period for which such individual has obtained forbearance in the repayment of a qualified student loan (as defined in subsection (b)(6)), if the eligible individual successfully completes the individual's required term of service (as determined under section 146(b)). Such regulations shall be prescribed after consultation with the Secretary of Education.

(f) EXCEPTION.—With the approval of the Director, an approved national service program funded under section 121, may offer participants the option of waiving their right to receive a national service educational award in order to receive an alternative post-service benefit funded by the program entirely with non-Federal funds.

(g) DEFINITION OF INSTITUTION OF HIGHER EDUCATION.—Notwithstanding section 101 of this Act, for purposes of this section the term "institution of higher education" has the meaning provided by section 102 of the Higher Education Act of 1965.

Subtitle E—Civilian Community Corps

SEC. 151. [42 U.S.C. 12611] PURPOSE.

It is the purpose of this subtitle to authorize the establishment of a Civilian Community Corps to provide a basis for determining—

(1) whether residential service programs administered by the Federal Government can significantly increase the support for national service and community service by the people of the United States;

(2) whether such programs can expand the opportunities for willing young men and women to perform meaningful, direct, and consequential acts of community service in a manner that will enhance their own skills while contributing to their understanding of civic responsibility in the United States;

(3) whether retired members and former members of the Armed Forces of the United States, members and former members of the Armed Forces discharged or released from active duty in connection with reduced Department of Defense spending, members and former members of the Armed Forces discharged or transferred from the Selected Reserve of the Ready Reserve in connection with reduced Department of Defense spending, and other members of the Armed Forces not on active duty and not actively participating in a reserve component of the Armed Forces can provide guidance and training under such programs that contribute meaningfully to the encouragement of national and community service; and

(4) whether domestic national service programs can serve as a substitute for the traditional option of military service in the Armed Forces of the United States which, in times of reductions in the size of the Armed Forces, is a diminishing national service opportunity for young Americans.

SEC. 152. [42 U.S.C. 12612] ESTABLISHMENT OF CIVILIAN COMMUNITY CORPS DEMONSTRATION PROGRAM.

(a) **IN GENERAL.**—The Corporation may establish the Civilian Community Corps Demonstration Program to carry out the purpose of this subtitle.

(b) **PROGRAM COMPONENTS.**—Under the Civilian Community Corps Demonstration Program authorized by subsection (a), the members of a Civilian Community Corps shall receive training and perform service in at least one of the following two program components:

(1) A national service program.

(2) A summer national service program.

(c) **RESIDENTIAL PROGRAMS.**—Both program components are residential programs. The members of the Corps in each program shall reside with other members of the Corps in Corps housing during the periods of the members' agreed service.

SEC. 153. [42 U.S.C. 12613] NATIONAL SERVICE PROGRAM.

(a) **IN GENERAL.**—Under the national service program component of the Civilian Community Corps Demonstration Program authorized by section 152(a), eligible young people shall work in teams on Civilian Community Corps projects.

(b) **ELIGIBLE PARTICIPANTS.**—A person shall be eligible for selection for the national service program if the person—

(1) is at least 16 and not more than 24 years of age; and

(2) is a high school graduate or has not received a high school diploma or its equivalent.

(c) **DIVERSE BACKGROUNDS OF PARTICIPANTS.**—In selecting persons for the national service program, the Director shall endeavor to ensure that participants are from economically, geographically, and ethnically diverse backgrounds.

(d) **NECESSARY PARTICIPANTS.**—To the extent practicable, at least 50 percent of the participants in the national service program shall be economically disadvantaged youths.

(e) **PERIOD OF PARTICIPATION.**—Persons desiring to participate in the national service program shall enter into an agreement with the Director to participate in the Corps for a period of not less than nine months and not more than one year, as specified by the Director, and may renew the agreement for not more than one additional such period.

SEC. 154. [42 U.S.C. 12614] SUMMER NATIONAL SERVICE PROGRAM.

(a) **IN GENERAL.**—Under the summer national service program of the Civilian Community Corps Demonstration Program authorized by section 152(a), a diverse group of youth aged 14 through 18 years who are from urban or rural areas shall work in teams on Civilian Community Corps projects.

(b) **NECESSARY PARTICIPANTS.**—To the extent practicable, at least 50 percent of the participants in the summer national service program shall be economically disadvantaged youths.

(c) SEASONAL PROGRAM.—The training and service of Corps members under the summer national service program in each year shall be conducted after April 30 and before October 1 of that year.

SEC. 155. [42 U.S.C. 12615] CIVILIAN COMMUNITY CORPS.

(a) DIRECTOR.—Upon the establishment of the Civilian Community Corps Demonstration Program, the Civilian Community Corps shall be under the direction of the Director appointed pursuant to section 159(c)(1).

(b) MEMBERSHIP IN CIVILIAN COMMUNITY CORPS.—

(1) PARTICIPANTS TO BE MEMBERS.—Persons selected to participate in the national service program or the summer national service program components of the Program shall become members of the Civilian Community Corps.

(2) SELECTION OF MEMBERS.—The Director or the Director's designee shall select individuals for membership in the Corps.

(3) APPLICATION FOR MEMBERSHIP.—To be selected to become a Corps member an individual shall submit an application to the Director or to any other office as the Director may designate, at such time, in such manner, and containing such information as the Director shall require. At a minimum, the application shall contain information about the work experience of the applicant and sufficient information to enable the Director, or the superintendent of the appropriate camp, to determine whether selection of the applicant for membership in the Corps is appropriate.

(c) ORGANIZATION OF CORPS INTO UNITS.—

(1) UNITS.—The Corps shall be divided into permanent units. Each Corps member shall be assigned to a unit.

(2) UNIT LEADERS.—The leader of each unit shall be selected from among persons in the permanent cadre established pursuant to section 159(c)(2). The designated leader shall accompany the unit throughout the period of agreed service of the members of the unit.

(d) CAMPS.—

(1) UNITS TO BE ASSIGNED TO CAMPS.—The units of the Corps shall be grouped together as appropriate in camps for operational, support, and boarding purposes. The Corps camp for a unit shall be in a facility or central location established as the operational headquarters and boarding place for the unit. Corps members may be housed in the camps.

(2) CAMP SUPERINTENDENT.—There shall be a superintendent for each camp. The superintendent is the head of the camp.

(3) ELIGIBLE SITE FOR CAMP.—A camp may be located in a facility referred to in section 162(a)(3).

(e) DISTRIBUTION OF UNITS AND CAMPS.—The Director shall ensure that the Corps units and camps are distributed in urban areas and rural areas in various regions throughout the United States.

(f) STANDARDS OF CONDUCT.—

(1) IN GENERAL.—The superintendent of each camp shall establish and enforce standards of conduct to promote proper moral and disciplinary conditions in the camp.

(2) SANCTIONS.—Under procedures prescribed by the Director, the superintendent of a camp may—

(A) transfer a member of the Corps in that camp to another unit or camp if the superintendent determines that the retention of the member in the member's unit or in the superintendent's camp will jeopardize the enforcement of the standards or diminish the opportunities of other Corps members in that unit or camp, as the case may be; or

(B) dismiss a member of the Corps from the Corps if the superintendent determines that retention of the member in the Corps will jeopardize the enforcement of the standards or diminish the opportunities of other Corps members.

(3) APPEALS.—Under procedures prescribed by the Director, a member of the Corps may appeal to the Director a determination of a camp superintendent to transfer or dismiss the member. The Director shall provide for expeditious disposition of appeals under this paragraph.

SEC. 156. [42 U.S.C. 12616] TRAINING.

(a) COMMON CURRICULUM.—Each member of the Civilian Community Corps shall be provided with between three and six weeks of training that includes a comprehensive service-learning curriculum designed to promote team building, discipline, leadership, work, training, citizenship, and physical conditioning.

(b) ADVANCED SERVICE TRAINING.—

(1) NATIONAL SERVICE PROGRAM.—Members of the Corps participating in the national service program shall receive advanced training in basic, project-specific skills that the members will use in performing their community service projects.

(2) SUMMER NATIONAL SERVICE PROGRAM.—Members of the Corps participating in the summer national service program shall not receive advanced training referred to in paragraph (1) but, to the extent practicable, may receive other training.

(c) TRAINING PERSONNEL.—

(1) IN GENERAL.—Members of the cadre appointed under section 159(c)(2) shall provide the training for the members of the Corps, including, as appropriate, advanced service training and ongoing training throughout the members' periods of agreed service.

(2) COORDINATION WITH OTHER ENTITIES.—Members of the cadre may provide the advanced service training referred to in subsection (b)(1) in coordination with vocational or technical schools, other employment and training providers, existing youth service programs, or other qualified individuals.

(d) FACILITIES.—The training may be provided at installations and other facilities of the Department of Defense, and at National Guard facilities, identified under section 162(a)(3).

SEC. 157. [42 U.S.C. 12617] SERVICE PROJECTS.

(a) PROJECT REQUIREMENTS.—The service projects carried out by the Civilian Community Corps shall—

(1) meet an identifiable public need;

(2) emphasize the performance of community service activities that provide meaningful community benefits and opportunities for service learning and skills development;

(3) to the maximum extent practicable, encourage work to be accomplished in teams of diverse individuals working together; and

(4) include continued education and training in various technical fields.

(b) PROJECT PROPOSALS.—

(1) DEVELOPMENT OF PROPOSALS.—

(A) SPECIFIC EXECUTIVE DEPARTMENTS.—Upon the establishment of the Program, the Secretary of Agriculture, the Secretary of the Interior, and the Secretary of Housing and Urban Development shall develop proposals for Corps projects pursuant to guidance which the Director shall prescribe.

(B) OTHER SOURCES.—Other public and private organizations and agencies, including representatives of local communities in the vicinity of a Corps camp, may develop proposals for projects for a Corps camp. Corps members shall also be encouraged to identify projects for the Corps.

(2) CONSULTATION REQUIREMENTS.—The process for developing project proposals under paragraph (1) shall include consultation with the Corporation, representatives of local communities, and persons involved in other youth service programs.

(c) PROJECT SELECTION, ORGANIZATION, AND PERFORMANCE.—

(1) SELECTION.—The superintendent of a Corps camp shall select the projects to be performed by the members of the Corps assigned to the units in that camp. The superintendent shall select projects from among the projects proposed or identified pursuant to subsection (b).

(2) INNOVATIVE LOCAL ARRANGEMENTS FOR PROJECT PERFORMANCE.—The Director shall encourage camp superintendents to negotiate with representatives of local communities, to the extent practicable, innovative arrangements for the performance of projects. The arrangements may provide for cost-sharing and the provision by the communities of in-kind support and other support.

SEC. 158. [42 U.S.C. 12618] AUTHORIZED BENEFITS FOR CORPS MEMBERS.

(a) IN GENERAL.—The Director shall provide for members of the Civilian Community Corps to receive benefits authorized by this section.

(b) LIVING ALLOWANCE.—The Director shall provide a living allowance to members of the Corps for the period during which such members are engaged in training or any activity on a Corps project. The Director shall establish the amount of the allowance at any amount not in excess of the amount equal to 100 percent of the poverty line that is applicable to a family of two (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))).

(c) OTHER AUTHORIZED BENEFITS.—While receiving training or engaging in service projects as members of the Civilian Community Corps, members may be provided the following benefits:

(1) Allowances for travel expenses, personal expenses, and other expenses.

(2) Quarters.

(3) Subsistence.

(4) Transportation.

(5) Equipment.

(6) Clothing.

(7) Recreational services and supplies.

(8) Other services determined by the Director to be consistent with the purposes of the Program.

(d) SUPPORTIVE SERVICES.—As the Director determines appropriate, the Director may provide each member of the Corps with health care services, child care services, counseling services, and other supportive services.

(e) POST SERVICE BENEFITS.—Upon completion of the agreed period of service with the Corps, a member shall elect to receive the educational assistance under subsection (f) or the cash benefit under subsection (g).

(f) NATIONAL SERVICE EDUCATIONAL AWARDS.—A Corps member who successfully completes a period of agreed service in the Corps may receive the national service educational award described in subtitle D if the Corps member—

(1) serves in an approved national service position; and

(2) satisfies the eligibility requirements specified in section 146 with respect to service in that approved national service position.

(g) ALTERNATIVE BENEFIT.—If a Corps member who successfully completes a period of agreed service in the Corps is ineligible for the national service educational award described in subtitle D, the Director may provide for the provision of a suitable alternative benefit for the Corps member.

SEC. 159. [42 U.S.C. 12619] ADMINISTRATIVE PROVISIONS.

(a) SUPERVISION.—The Chief Executive Officer shall monitor and supervise the administration of the Civilian Community Corps Demonstration Program authorized to be established under section 152. In carrying out this section, the Chief Executive Officer shall—

(1) approve such guidelines, recommended by the Board, for the design, selection of members, and operation of the Civilian Community Corps as the Chief Executive Officer considers appropriate;

(2) evaluate the progress of the Corps in providing a basis for determining the matters set forth in section 151; and

(3) carry out any other activities determined appropriate by the Board.

(b) MONITORING AND COORDINATION.—The Chief Executive Officer shall—

(1) monitor the overall operation of the Civilian Community Corps;

(2) coordinate the activities of the Corps with other youth service programs administered by the Corporation; and

(3) carry out any other activities determined appropriate by the Board.

(c) STAFF.—

(1) DIRECTOR.—

(A) APPOINTMENT.—Upon the establishment of the Program, the Chief Executive Officer shall appoint a Director. The Director may be selected from among retired commissioned officers of the Armed Forces of the United States.

(B) DUTIES.—The Director shall—

- (i) design, develop, and administer the Civilian Community Corps programs;
- (ii) be responsible for managing the daily operations of the Corps; and
- (iii) report to the Chief Executive Officer.

(C) AUTHORITY TO EMPLOY STAFF.—The Director may employ such staff as is necessary to carry out this subtitle. The Director shall, to the maximum extent practicable, utilize in staff positions personnel who are detailed from departments and agencies of the Federal Government and, to the extent the Director considers appropriate, shall request and accept detail of personnel from such departments and agencies in order to do so.

(2) PERMANENT CADRE.—

(A) ESTABLISHMENT.—The Director shall establish a permanent cadre of supervisors and training instructors for Civilian Community Corps programs.

(B) APPOINTMENT.—The Director shall appoint the members of the permanent cadre.

(C) EMPLOYMENT CONSIDERATIONS.—In appointing individuals to cadre positions, the Director shall—

- (i) give consideration to retired, discharged, and other inactive members and former members of the Armed Forces recommended under section 162(a)(2);
- (ii) give consideration to former VISTA, Peace Corps, and youth service program personnel;
- (iii) ensure that the cadre is comprised of males and females of diverse ethnic, economic, professional, and geographic backgrounds; and
- (iv) consider applicants' experience in other youth service programs.

(D) COMMUNITY SERVICE CREDIT.—Service as a member of the cadre shall be considered as a community service opportunity for purposes of section 4403 of the National Defense Authorization Act for Fiscal Year 1993 and as employment with a public service or community service organization for purposes of section 4464 of that Act.

(E) TRAINING.—The Director shall provide to members of the permanent cadre appropriate training in youth development techniques and the principles of service learning. All members of the permanent cadre shall be required to participate in the training.

(3) INAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director, the members of the permanent cadre, and the other staff personnel shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The rates of pay of such persons may be established without regard to the provisions of chapter 51

and subchapter III of chapter 53 of such title. In the case of a member of the permanent cadre who was recommended for appointment in accordance with section 162(a)(2)(A) and is entitled to retired or retainer pay, section 5532 of title 5, United States Code, shall not apply to reduce the member's retired or retainer pay by reason of the member being paid as a member of the cadre.

(4) VOLUNTARY SERVICES.—Notwithstanding any other provision of law, the Director may accept the voluntary services of individuals. While away from their homes or regular places of business on the business of the Corps, such individuals may be allowed travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent, as authorized under section 5703 of title 5, United States Code, for persons employed intermittently in Federal Government service.

SEC. 160. [42 U.S.C. 12620] STATUS OF CORPS MEMBERS AND CORPS PERSONNEL UNDER FEDERAL LAW.

(a) IN GENERAL.—Except as otherwise provided in this section, members of the Civilian Community Corps shall not, by reason of their status as such members, be considered Federal employees or be subject to the provisions of law relating to Federal employment.

(b) WORK-RELATED INJURIES.—

(1) IN GENERAL.—For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to the compensation of Federal employees for work injuries, members of the Corps shall be considered as employees of the United States within the meaning of the term “employee”, as defined in section 8101 of such title.

(2) SPECIAL RULE.—In the application of the provisions of subchapter I of chapter 81 of title 5, United States Code, to a person referred to in paragraph (1), the person shall not be considered to be in the performance of duty while absent from the person's assigned post of duty unless the absence is authorized in accordance with procedures prescribed by the Director.

(c) TORT CLAIMS PROCEDURE.—A member of the Corps shall be considered an employee of the United States for purposes of chapter 171 of title 28, United States Code, relating to tort claims liability and procedure.

SEC. 161. [42 U.S.C. 12621] CONTRACT AND GRANT AUTHORITY.

(a) PROGRAMS.—The Director may, by contract or grant, provide for any public or private organization to perform any program function under this subtitle.

(b) EQUIPMENT AND FACILITIES.—

(1) FEDERAL AND NATIONAL GUARD PROPERTY.—The Director shall enter into agreements, as necessary, with the Secretary of Defense, the Governor of a State, territory or commonwealth, or the commanding general of the District of Columbia National Guard, as the case may be, to utilize—

(A) equipment of the Department of Defense and equipment of the National Guard; and

(B) Department of Defense facilities and National Guard facilities identified pursuant to section 162(a)(3).

(2) OTHER PROPERTY.—The Director may enter into contracts or agreements for the use of other equipment or facilities to the extent practicable to train and house members of the Civilian Community Corps and leaders of Corps units.

SEC. 162. [42 U.S.C. 12622] RESPONSIBILITIES OF OTHER DEPARTMENTS.

(a) SECRETARY OF DEFENSE.—

(1) LIAISON OFFICE.—

(A) ESTABLISHMENT.—Upon the establishment of the Program, the Secretary of Defense shall establish an office to provide for liaison between the Secretary and the Civilian Community Corps.

(B) DUTIES.—The office shall—

(i) in order to assist in the recruitment of personnel for appointment in the permanent cadre, make available to the Director information in the registry established by section 4462 of the National Defense Authorization Act for Fiscal Year 1993¹; and

(ii) provide other assistance in the coordination of Department of Defense activities with the Corps.

(2) CORPS CADRE.—

(A) LIST OF RECOMMENDED PERSONNEL.—Upon the establishment of the Program, the Secretary of Defense, in consultation with the liaison office established under paragraph (1) shall develop a list of individuals to be recommended for appointment in the permanent cadre of Corps personnel. Such personnel shall be selected from among members and former members of the Armed Forces referred to in section 151(3) who are commissioned officers, noncommissioned officers, former commissioned officers, or former noncommissioned officers.

(B) RECOMMENDATIONS REGARDING GRADE AND PAY.—The Secretary of Defense shall recommend to the Director an appropriate rate of pay for each person recommended for the cadre pursuant to this paragraph.

(C) CONTRIBUTION FOR RETIRED MEMBER'S PAY.—If a listed individual receiving retired or retainer pay is appointed to a position in the cadre and the rate of pay for that individual is established at the amount equal to the difference between the active duty pay and allowances which that individual would receive if ordered to active duty and the amount of the individual's retired or retainer pay, the Secretary of Defense shall pay, by transfer to the Corporation from amounts available for pay of active duty members of the Armed Forces, the amount equal to 50 percent of that individual's rate of pay for service in the cadre.

(3) FACILITIES.—Upon the establishment of the Program, the Secretary of Defense shall identify military installations and other facilities of the Department of Defense and, in con-

¹This reference probably should be to section 1143a of title 10, United States Code. An amendment made by section 3(b)(5)(C) of the King Holiday and Service Act of 1994 (P.L. 103-304; 108 Stat. 1567) striking "section 4462 of the National Defense Authorization Act for Fiscal Year 1993" and inserting "section 1143a of title 10, United States Code" to clause (ii) could not be executed. Probably should have been made to clause (i) of subsection (a)(1)(B).

sultation with the adjutant generals of the State National Guards, National Guard facilities that may be used, in whole or in part, by the Civilian Community Corps for training or housing Corps members. The Secretary of Defense shall carry out this paragraph in consultation with the liaison office established under paragraph (1).

(4) INFORMATION REGARDING CORPS.—The Secretary of Defense may permit Armed Forces recruiters to inform potential applicants for the Corps regarding service in the Corps as an alternative to service in the Armed Forces.

(b) SECRETARY OF LABOR.—Upon the establishment of the Program, the Secretary of Labor shall identify and assist in establishing a system for the recruitment of persons to serve as members of the Civilian Community Corps. In carrying out this subsection, the Secretary of Labor may utilize the Employment Service Agency or the Office of Job Training.

SEC. 163. [42 U.S.C. 12623] ADVISORY BOARD.

(a) ESTABLISHMENT AND PURPOSE.—Upon the establishment of the Program, there shall also be established a Civilian Community Corps Advisory Board to advise the Director concerning the administration of this subtitle and to assist in the development and administration of the Corps.

(b) MEMBERSHIP.—The Advisory Board shall be composed of the following members:

- (1) The Secretary of Labor.
- (2) The Secretary of Defense.
- (3) The Secretary of the Interior.
- (4) The Secretary of Agriculture.
- (5) The Secretary of Education.
- (6) The Secretary of Housing and Urban Development.
- (7) The Chief of the National Guard Bureau.

(8) Individuals appointed by the Director from among persons who are broadly representative of educational institutions, voluntary organizations, industry, youth, and labor unions.

- (9) The Chief Executive Officer.

(c) INAPPLICABILITY OF TERMINATION REQUIREMENT.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Board.

SEC. 164. [42 U.S.C. 12624] ANNUAL EVALUATION.

Pursuant to the provisions for evaluations conducted under section 179, and in particular subsection (g) of such section, the Corporation shall conduct an annual evaluation of the Civilian Community Corps programs authorized under this subtitle.

SEC. 165. [42 U.S.C. 12625] FUNDING LIMITATION.

The Corporation, in consultation with the Director, shall ensure that no amounts appropriated under section 501 are utilized to carry out this subtitle.

SEC. 166. [42 U.S.C. 12626] DEFINITIONS.

In this subtitle:

(1) BOARD.—The term “Board” means the Board of Directors of the Corporation.

(2) CORPS.—The terms “Civilian Community Corps” and “Corps” mean the Civilian Community Corps required under

section 155 as part of the Civilian Community Corps Demonstration Program.

(3) **CORPS CAMP.**—The term “Corps camp” means the facility or central location established as the operational headquarters and boarding place for particular Corps units.

(4) **CORPS MEMBERS.**—The term “Corps members” means persons receiving training and participating in projects under the Civilian Community Corps Demonstration Program.

(5) **DIRECTOR.**—The term “Director” means the Director of the Civilian Community Corps.

(6) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given that term in section 101 of the Higher Education Act of 1965.

(7) **PROGRAM.**—The terms “Civilian Community Corps Demonstration Program” and “Program” mean the Civilian Community Corps Demonstration Program established pursuant to section 152.

(8) **SERVICE LEARNING.**—The term “service learning”, with respect to Corps members, means a method—

(A) under which Corps members learn and develop through active participation in thoughtfully organized service experiences that meet actual community needs;

(B) that provides structured time for a Corps member to think, talk, or write about what the Corps member did and saw during an actual service activity;

(C) that provides Corps members with opportunities to use newly acquired skills and knowledge in real life situations in their own communities; and

(D) that helps to foster the development of a sense of caring for others, good citizenship, and civic responsibility.

(9) **SUPERINTENDENT.**—The term “superintendent”, with respect to a Corps camp, means the head of the camp under section 155(d).

(10) **UNIT.**—The term “unit” means a unit of the Corps referred to in section 155(c).

Subtitle F—Administrative Provisions

SEC. 171. [42 U.S.C. 12631] FAMILY AND MEDICAL LEAVE.

(a) **PARTICIPANTS IN PRIVATE, STATE, AND LOCAL PROJECTS.**—For purposes of title I of the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), if—

(1) a participant has provided service for the period required by section 101(2)(A)(i) (29 U.S.C. 2611(2)(A)(i)), and has met the hours of service requirement of section 101(2)(A)(ii), of such Act with respect to a project; and

(2) the service sponsor of the project is an employer described in section 101(4) of such Act (other than an employing agency within the meaning of subchapter V of chapter 63 of title 5, United States Code),

the participant shall be considered to be an eligible employee of the service sponsor.

(b) **PARTICIPANTS IN FEDERAL PROJECTS.**—For purposes of subchapter V of chapter 63 of title 5, United States Code, if—

(1) a participant has provided service for the period required by section 6381(1)(B) of such title with respect to a project; and

(2) the service sponsor of the project is an employing agency within the meaning of such subchapter, the participant shall be considered to be an employee of the service sponsor.

(c) TREATMENT OF ABSENCE.—The period of any absence of a participant from a service position pursuant to title I of the Family and Medical Leave Act of 1993 or subchapter V of chapter 63 of title 5, United States Code, shall not be counted toward the completion of the term of service of the participant under section 139 of this Act.

SEC. 172. [42 U.S.C. 12632] REPORTS.

(a) STATE REPORTS.—

(1) IN GENERAL.—Each State receiving assistance under this title shall prepare and submit, to the Corporation, an annual report concerning the use of assistance provided under this title and the status of the national and community service programs that receive assistance under such title in such State.

(2) LOCAL GRANTEEES.—Each State may require local grantees that receive assistance under this title to supply such information to the State as is necessary to enable the State to complete the report required under paragraph (1), including a comparison of actual accomplishments with the goals established for the program, the number of participants in the program, the number of service hours generated, and the existence of any problems, delays or adverse conditions that have affected or will affect the attainment of program goals.

(3) REPORT DEMONSTRATING COMPLIANCE.—

(A) IN GENERAL.—Each State receiving assistance under this title shall include information in the report required under paragraph (1) that demonstrates the compliance of the State with the provisions of this Act, including section 177.

(B) LOCAL GRANTEEES.—Each State may require local grantees to supply such information to the State as is necessary to enable the State to comply with the requirement of paragraph (1).

(4) AVAILABILITY OF REPORT.—Reports submitted under paragraph (1) shall be made available to the public on request.

(b) REPORT TO CONGRESS BY CORPORATION¹

(1) IN GENERAL.—Not later than 120 days after the end of each fiscal year, the Corporation shall prepare and submit, to the appropriate authorizing and appropriation Committees of Congress, a report concerning the programs that receive assistance under the national service laws.

(2) CONTENT.—Reports submitted under paragraph (1) shall contain a summary of the information contained in the State reports submitted under subsection (a), and shall reflect the findings and actions taken as a result of any evaluation conducted by the Corporation.

¹ So in law. Subsection heading probably should end with “.—”.

(c) REPORT TO CONGRESS BY SECRETARY OF DEFENSE.—

(1) STUDY.—The Secretary of Defense shall annually conduct a study of the effect of the programs carried out under this title on recruitment for the Armed Forces.

(2) REPORT.—The Secretary of Defense shall annually submit a report to the appropriate committees of Congress containing the findings of the study described in paragraph (1) and such recommendations for legislative and administrative reform as the Secretary may determine to be appropriate.

SEC. 173. [42 U.S.C. 12633] SUPPLEMENTATION.

(a) IN GENERAL.—Assistance provided under this title shall be used to supplement the level of State and local public funds expended for services of the type assisted under this title in the previous fiscal year.

(b) AGGREGATE EXPENDITURE.—Subsection (a) shall be satisfied, with respect to a particular program, if the aggregate expenditure for such program for the fiscal year in which services are to be provided will not be less than the aggregate expenditure for such program in the previous fiscal year, excluding the amount of Federal assistance provided and any other amounts used to pay the remainder of the costs of programs assisted under this title.

SEC. 174. [42 U.S.C. 12634] PROHIBITION ON USE OF FUNDS.

(a) PROHIBITED USES.—No assistance made available under a grant under this title shall be used to provide religious instruction, conduct worship services, or engage in any form of proselytization.

(b) POLITICAL ACTIVITY.—Assistance provided under this title shall not be used by program participants and program staff to—

(1) assist, promote, or deter union organizing; or

(2) finance, directly or indirectly, any activity designed to influence the outcome of an election to Federal office or the outcome of an election to a State or local public office.

(c) CONTRACTS OR COLLECTIVE BARGAINING AGREEMENTS.—A program that receives assistance under this title shall not impair existing contracts for services or collective bargaining agreements.

SEC. 175. [42 U.S.C. 12635] NONDISCRIMINATION.

(a) IN GENERAL.—

(1) BASIS.—An individual with responsibility for the operation of a project that receives assistance under this title shall not discriminate against a participant in, or member of the staff of, such project on the basis of race, color, national origin, sex, age, or political affiliation of such participant or member, or on the basis of disability, if the participant or member is a qualified individual with a disability.

(2) DEFINITION.—As used in paragraph (1), the term “qualified individual with a disability” has the meaning given the term in section 101(8) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(8)).

(b) FEDERAL FINANCIAL ASSISTANCE.—Any assistance provided under this title shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and shall constitute Federal financial assistance to

an education program or activity for purposes of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.).

(c) RELIGIOUS DISCRIMINATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), an individual with responsibility for the operation of a project that receives assistance under this title shall not discriminate on the basis of religion against a participant in such project or a member of the staff of such project who is paid with funds received under this title.

(2) EXCEPTION.—Paragraph (1) shall not apply to the employment, with assistance provided under this title, of any member of the staff, of a project that receives assistance under this title, who was employed with the organization operating the project on the date the grant under this title was awarded.

(d) RULES AND REGULATIONS.—The Chief Executive Officer shall promulgate rules and regulations to provide for the enforcement of this section that shall include provisions for summary suspension of assistance for not more than 30 days, on an emergency basis, until notice and an opportunity to be heard can be provided.

SEC. 176. [42 U.S.C. 12636] NOTICE, HEARING, AND GRIEVANCE PROCEDURES.

(a) IN GENERAL.—

(1) SUSPENSION OF PAYMENTS.—The Corporation may in accordance with the provisions of this title, suspend or terminate payments under a contract or grant providing assistance under this title, or revoke the designation of positions, related to the grant or contract, as approved national service positions, whenever the Corporation determines there is a material failure to comply with this title or the applicable terms and conditions of any such grant or contract issued pursuant to this title.

(2) PROCEDURES TO ENSURE ASSISTANCE.—The Corporation shall prescribe procedures to ensure that—

(A) assistance provided under this title shall not be suspended for failure to comply with the applicable terms and conditions of this title except, in emergency situations, a suspension may be granted for 30 days; and

(B) assistance provided under this title shall not be terminated or revoked for failure to comply with applicable terms and conditions of this title unless the recipient of such assistance has been afforded reasonable notice and opportunity for a full and fair hearing.

(b) HEARINGS.—Hearings or other meetings that may be necessary to fulfill the requirements of this section shall be held at locations convenient to the recipient of assistance under this title.

(c) TRANSCRIPT OR RECORDING.—A transcript or recording shall be made of a hearing conducted under this section and shall be available for inspection by any individual.

(d) STATE LEGISLATION.—Nothing in this title shall be construed to preclude the enactment of State legislation providing for the implementation, consistent with this title, of the programs administered under this title.

(e) CONSTRUCTION.—Nothing in this title shall be construed to link performance of service with receipt of Federal student financial assistance, other than assistance provided pursuant to this Act.

(f) GRIEVANCE PROCEDURE.—

(1) IN GENERAL.—A State or local applicant that receives assistance under this title shall establish and maintain a procedure for the filing and adjudication of grievances from participants, labor organizations, and other interested individuals concerning projects that receive assistance under this title, including grievances regarding proposed placements of such participants in such projects.

(2) DEADLINE FOR GRIEVANCES.—Except for a grievance that alleges fraud or criminal activity, a grievance shall be made not later than 1 year after the date of the alleged occurrence of the event that is the subject of the grievance.

(3) DEADLINE FOR HEARING AND DECISION.—

(A) HEARING.—A hearing on any grievance conducted under this subsection shall be conducted not later than 30 days after the filing of such grievance.

(B) DECISION.—A decision on any such grievance shall be made not later than 60 days after the filing of such grievance.

(4) ARBITRATION.—

(A) IN GENERAL.—

(i) JOINTLY SELECTED ARBITRATOR.—In the event of a decision on a grievance that is adverse to the party who filed such grievance, or 60 days after the filing of such grievance if no decision has been reached, such party shall be permitted to submit such grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the interested parties.

(ii) APPOINTED ARBITRATOR.—If the parties cannot agree on an arbitrator, the Chief Executive Officer shall appoint an arbitrator from a list of qualified arbitrators within 15 days after receiving a request for such appointment from one of the parties to the grievance.

(B) DEADLINE FOR PROCEEDING.—An arbitration proceeding shall be held not later than 45 days after the request for such arbitration proceeding, or, if the arbitrator is appointed by the Chief Executive Officer in accordance with subparagraph (A)(ii), not later than 30 days after the appointment of such arbitrator.

(C) DEADLINE FOR DECISION.—A decision concerning a grievance shall be made not later than 30 days after the date such arbitration proceeding begins.

(D) COST.—

(i) IN GENERAL.—Except as provided in clause (ii), the cost of an arbitration proceeding shall be divided evenly between the parties to the arbitration.

(ii) EXCEPTION.—If a participant, labor organization, or other interested individual described in paragraph (1) prevails under a binding arbitration proceeding, the State or local applicant described in paragraph (1) that is a party to such grievance shall pay the total cost of such proceeding and the attor-

neys' fees of such participant, labor organization, or individual, as the case may be.

(5) PROPOSED PLACEMENT.—If a grievance is filed regarding a proposed placement of a participant in a project that receives assistance under this title, such placement shall not be made unless the placement is consistent with the resolution of the grievance pursuant to this subsection.

(6) REMEDIES.—Remedies for a grievance filed under this subsection include—

(A) suspension of payments for assistance under this title;

(B) termination of such payments;

(C) prohibition of the placement described in paragraph (5); and

(D) in a case in which the grievance involves a violation of subsection (a) or (b) of section 177 and the employer of the displaced employee is the recipient of assistance under this title—

(i) reinstatement of the displaced employee to the position held by such employee prior to displacement;

(ii) payment of lost wages and benefits of the displaced employee;

(iii) reestablishment of other relevant terms, conditions, and privileges of employment of the displaced employee; and

(iv) such equitable relief as is necessary to correct any violation of subsection (a) or (b) of section 177 or to make the displaced employee whole.

(7) ENFORCEMENT.—Suits to enforce arbitration awards under this section may be brought in any district court of the United States having jurisdiction of the parties, without regard to the amount in controversy and without regard to the citizenship of the parties.

SEC. 177. [42 U.S.C. 12637] NONDUPLICATION AND NONDISPLACEMENT.

(a) NONDUPLICATION.—

(1) IN GENERAL.—Assistance provided under this title shall be used only for a program that does not duplicate, and is in addition to, an activity otherwise available in the locality of such program.

(2) PRIVATE NONPROFIT ENTITY.—Assistance made available under this title shall not be provided to a private nonprofit entity to conduct activities that are the same or substantially equivalent to activities provided by a State or local government agency that such entity resides in, unless the requirements of subsection (b) are met.

(b) NONDISPLACEMENT.—

(1) IN GENERAL.—An employer shall not displace an employee or position, including partial displacement such as reduction in hours, wages, or employment benefits, as a result of the use by such employer of a participant in a program receiving assistance under this title.

(2) SERVICE OPPORTUNITIES.—A service opportunity shall not be created under this title that will infringe in any manner on the promotional opportunity of an employed individual.

(3) LIMITATION ON SERVICES.—

(A) DUPLICATION OF SERVICES.—A participant in a program receiving assistance under this title shall not perform any services or duties or engage in activities that would otherwise be performed by an employee as part of the assigned duties of such employee.

(B) SUPPLANTATION OF HIRING.—A participant in any program receiving assistance under this title shall not perform any services or duties, or engage in activities, that—

(i) will supplant the hiring of employed workers;

or

(ii) are services, duties, or activities with respect to which an individual has recall rights pursuant to a collective bargaining agreement or applicable personnel procedures.

(C) DUTIES FORMERLY PERFORMED BY ANOTHER EMPLOYEE.—A participant in any program receiving assistance under this title shall not perform services or duties that have been performed by or were assigned to any—

(i) presently employed worker;

(ii) employee who recently resigned or was discharged;

(iii) employee who—

(I) is subject to a reduction in force; or

(II) has recall rights pursuant to a collective bargaining agreement or applicable personnel procedures;

(iv) employee who is on leave (terminal, temporary, vacation, emergency, or sick); or

(v) employee who is on strike or who is being locked out.

(c) LABOR MARKET INFORMATION.—The Secretary of Labor shall make available to the Corporation and to any program agency under this title such labor market information as is appropriate for use in carrying out the purposes of this title.

(d) TREATMENT OF BENEFITS.—Allowances, earnings, and payments to individuals participating in programs that receive assistance under this title shall not be considered to be income for the purposes of determining eligibility for and the amount of income transfer and in-kind aid furnished under any Federal or federally assisted program based on need, other than as provided under the Social Security Act (42 U.S.C. 301 et seq.).

(e) STANDARDS OF CONDUCT.—Programs that receive assistance under this title shall establish and stringently enforce standards of conduct at the program site to promote proper moral and disciplinary conditions.

SEC. 178. [42 U.S.C. 12638] STATE COMMISSIONS ON NATIONAL AND COMMUNITY SERVICE.

(a) EXISTENCE REQUIRED.—

(1) STATE COMMISSION.—Except as provided in paragraph (2), to be eligible to receive a grant or allotment under subtitle B or C or to receive a distribution of approved national service positions under subtitle C, a State shall maintain a State Commission on National and Community Service that satisfies the requirements of this section.

(2) ALTERNATIVE ADMINISTRATIVE ENTITY.—The chief executive officer of a State may apply to the Corporation for approval to use an alternative administrative entity to carry out the duties otherwise entrusted to a State Commission under this Act. The chief executive officer shall ensure that any alternative administrative entity used in lieu of a State Commission provides for the individuals described in paragraph (1), and some of the individuals described in paragraph (2), of subsection (c) to play a significant policymaking role in carrying out the duties otherwise entrusted to a State Commission, including the submission of applications on behalf of the State under sections 117B and 130.

(b) APPOINTMENT AND SIZE.—Except as provided in subsection (c)(3), the members of a State Commission for a State shall be appointed by the chief executive officer of the State. A State Commission shall consist of not fewer than 15, and not more than 25, voting members, and any ex officio nonvoting members, as described in paragraph (3) or (4) of subsection (c).

(c) COMPOSITION AND MEMBERSHIP.—

(1) REQUIRED MEMBERS.—The State Commission for a State shall include as voting members at least one of each of the following individuals:

(A) An individual with expertise in the educational, training, and development needs of youth, particularly disadvantaged youth.

(B) An individual with experience in promoting the involvement of older adults in service and voluntarism.

(C) A representative of community-based agencies or community-based organizations within the State.

(D) The head of the State educational agency.

(E) A representative of local governments in the State.

(F) A representative of local labor organizations in the State.

(G) A representative of business.

(H) An individual between the ages of 16 and 25 who is a participant or supervisor in a program.

(I) A representative of a national service program described in section 122(a), such as a youth corps program described in section 122(a)(2).

(2) SOURCES OF OTHER MEMBERS.—The State Commission for a State may include as voting members the following individuals:

(A) Members selected from among local educators.

(B) Members selected from among experts in the delivery of human, educational, environmental, or public safety services to communities and persons.

(C) Representatives of Indian tribes.

(D) Members selected from among out-of-school youth or other at-risk youth.

(E) Representatives of entities that receive assistance under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

(3) CORPORATION REPRESENTATIVE.—The representative of the Corporation designated under section 195(c) for a State shall be an ex officio nonvoting member of the State Commis-

sion or alternative administrative entity for that State, unless the State permits the representative to serve as a voting member of the State Commission or alternative administrative entity.

(4) EX OFFICIO STATE REPRESENTATIVES.—The chief executive officer of a State may appoint, as ex officio nonvoting members of the State Commission for the State, representatives selected from among officers and employees of State agencies operating community service, youth service, education, social service, senior service, and job training programs.

(5) LIMITATION ON NUMBER OF STATE EMPLOYEES AS MEMBERS.—The number of voting members of a State Commission selected under paragraph (1) or (2) who are officers or employees of the State may not exceed 25 percent (reduced to the nearest whole number) of the total membership of the State Commission.

(d) MISCELLANEOUS MATTERS.—

(1) MEMBERSHIP BALANCE.—The chief executive officer of a State shall ensure, to the maximum extent practicable, that the membership of the State Commission for the State is diverse with respect to race, ethnicity, age, gender, and disability characteristics. Not more than 50 percent of the voting members of a State Commission, plus one additional member, may be from the same political party.

(2) TERMS.—Each member of the State Commission for a State shall serve for a term of 3 years, except that the chief executive officer of a State shall initially appoint a portion of the members to terms of 1 year and 2 years.

(3) VACANCIES.—If a vacancy occurs on a State Commission, a new member shall be appointed by the chief executive officer of the State and serve for the remainder of the term for which the predecessor of such member was appointed. The vacancy shall not affect the power of the remaining members to execute the duties of the State Commission.

(4) COMPENSATION.—A member of a State Commission or alternative administrative entity shall not receive any additional compensation by reason of service on the State Commission or alternative administrative entity, except that the State may authorize the reimbursement of travel expenses, including a per diem in lieu of subsistence, in the same manner as other employees serving intermittently in the service of the State.

(5) CHAIRPERSON.—The voting members of a State Commission shall elect one of the voting members to serve as chairperson of the State Commission.

(6) LIMITATION ON MEMBER PARTICIPATION.—

(A) GENERAL LIMITATION.—Except as provided in subparagraph (B), a voting member of the State Commission (or of an alternative administrative entity) shall not participate in the administration of the grant program (including any discussion or decision regarding the provision of assistance or approved national service positions, or the continuation, suspension, or termination of such assistance or such positions, to any program or entity) described in subsection (e)(9) if—

(i) a grant application relating to such program is pending before the Commission (or such entity); and

(ii) the application was submitted by a program or entity of which such member is, or in the 1-year period before the submission of such application was, an officer, director, trustee, full-time volunteer, or employee.

(B) EXCEPTION.—If, as a result of the operation of subparagraph (A), the number of voting members of the Commission (or of such entity) is insufficient to establish a quorum for the purpose of administering such program, then voting members excluded from participation by subparagraph (A) may participate in the administration of such program, notwithstanding the limitation in subparagraph (A), to the extent permitted by regulations issued under section 193A(b)(11) by the Corporation.

(C) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed to limit the authority of any voting member of the Commission (or of such entity) to participate in—

(i) discussion of, and hearing and forums on—

(I) the general duties, policies, and operations of the Commission (or of such entity); or

(II) the general administration of such program; or

(ii) similar general matters relating to the Commission (or such entity).

(e) DUTIES OF A STATE COMMISSION.—The State Commission or alternative administrative entity for a State shall be responsible for the following duties:

(1) Preparation of a national service plan for the State that—

(A) is developed through an open and public process (such as through regional forums, hearings, and other means) that provides for maximum participation and input from national service programs within the State and other interested members of the public;

(B) covers a 3-year period;

(C) is updated annually;

(D) ensures outreach to diverse community-based agencies that serve underrepresented populations, by—

(i) using established networks, and registries, at the State level; or

(ii) establishing such networks and registries; and

(E) contains such information as the State Commission considers to be appropriate or as the Corporation may require.

(2) Preparation of the applications of the State under sections 117B and 130 for financial assistance.

(3) Assistance in the preparation of the application of the State educational agency for assistance under section 113.

(4) Preparation of the application of the State under section 130 for the approval of service positions that include the national service educational award described in subtitle D.

(5) Make recommendations to the Corporation with respect to priorities for programs receiving assistance under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

(6) Make technical assistance available to enable applicants for assistance under section 121—

(A) to plan and implement service programs; and

(B) to apply for assistance under the national service laws using, if appropriate, information and materials available through a clearinghouse established under section 198A.

(7) Assistance in the provision of health care and child care benefits under section 140 to participants in national service programs that receive assistance under section 121.

(8) Development of a State system for the recruitment and placement of participants in programs that receive assistance under the national service laws and dissemination of information concerning national service programs that receive such assistance or approved national service positions.

(9) Administration of the grant program in support of national service programs that is conducted by the State using assistance provided to the State under section 121, including selection, oversight, and evaluation of grant recipients.

(10) Development of projects, training methods, curriculum materials, and other materials and activities related to national service programs that receive assistance directly from the Corporation (to be made available in a case in which such a program requests such a project, method, material, or activity) or from the State using assistance provided under section 121, for use by programs that request such projects, methods, materials, and activities.

(f) **ACTIVITY INELIGIBLE FOR ASSISTANCE.**—A State Commission or alternative administrative entity may not directly carry out any national service program that receives assistance under section 121.

(g) **DELEGATION.**—Subject to such requirements as the Corporation may prescribe, a State Commission may delegate non-policymaking duties to a State agency or public or private nonprofit organization.

(h) **APPROVAL OF STATE COMMISSION OR ALTERNATIVE.**—

(1) **SUBMISSION TO CORPORATION.**—The chief executive officer for a State shall notify the Corporation of the establishment or designation of the State Commission or use of an alternative administrative entity for the State. The notification shall include a description of—

(A) the composition and membership of the State Commission or alternative administrative entity; and

(B) the authority of the State Commission or alternative administrative entity regarding national service activities carried out by the State.

(2) **APPROVAL OF ALTERNATIVE ADMINISTRATIVE ENTITY.**—Any designation of a State Commission or use of an alternative administrative entity to carry out the duties of a State Commission shall be subject to the approval of the Corporation, which shall not be unreasonably withheld. The Corporation shall approve an alternative administrative entity if such enti-

ty provides for individuals described in paragraph (1), and some of the individuals described in paragraph (2), of subsection (c) to play a significant policymaking role in carrying out the duties otherwise entrusted to a State Commission, including the duties described in paragraphs (1) through (4) of subsection (e).

(3) REJECTION.—The Corporation may reject a State Commission if the Corporation determines that the composition, membership, or duties of the State Commission do not comply with the requirements of this section. The Corporation may reject a request to use an alternative administrative entity in lieu of a State Commission if the Corporation determines that the entity does not provide for the individuals described in paragraph (1), and some of the individuals described in paragraph (2), of subsection (c) to play a significant policymaking role as described in paragraph (2). If the Corporation rejects a State Commission or alternative administrative entity under this paragraph, the Corporation shall promptly notify the State of the reasons for the rejection.

(4) RESUBMISSION AND RECONSIDERATION.—The Corporation shall provide a State notified under paragraph (3) with a reasonable opportunity to revise the rejected State Commission or alternative administrative entity. At the request of the State, the Corporation shall provide technical assistance to the State as part of the revision process. The Corporation shall promptly reconsider any resubmission of a notification under paragraph (1) or application to use an alternative administrative entity under paragraph (2).

(5) SUBSEQUENT CHANGES.—This subsection shall also apply to any change in the composition or duties of a State Commission or an alternative administrative entity made after approval of the State Commission or the alternative administrative entity.

(6) RIGHTS.—An alternative administrative entity approved by the Corporation under this subsection shall have the same rights as a State Commission.

(i) COORDINATION.—

(1) COORDINATION WITH OTHER STATE AGENCIES.—The State Commission or alternative administrative entity for a State shall coordinate the activities of the Commission or entity under this Act with the activities of other State agencies that administer Federal financial assistance programs under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.) or other appropriate Federal financial assistance programs.

(2) COORDINATION WITH VOLUNTEER SERVICE PROGRAMS.—

(A) IN GENERAL.—The State Commission or alternative administrative entity for a State shall coordinate functions of the Commission or entity (including recruitment, public awareness, and training activities) with such functions of any division of the Corporation, that carries out volunteer service programs in the State.

(B) AGREEMENT.—In coordinating functions under this paragraph, such Commission or entity, and such division, may enter into an agreement to—

- (i) carry out such a function jointly;
- (ii) to assign responsibility for such a function to the Commission or entity; or
- (iii) to assign responsibility for such a function to the division.

(C) INFORMATION.—The State Commission or alternative entity for a State, and the head of any such division, shall exchange information about—

- (i) the programs carried out in the State by the Commission, entity, or division, as appropriate; and
- (ii) opportunities to coordinate activities.

(j) LIABILITY.—

(1) LIABILITY OF STATE.—Except as provided in paragraph (2)(B), a State shall agree to assume liability with respect to any claim arising out of or resulting from any act or omission by a member of the State Commission or alternative administrative entity of the State, within the scope of the service of the member on the State Commission or alternative administrative entity.

(2) OTHER CLAIMS.—

(A) IN GENERAL.—A member of the State Commission or alternative administrative entity shall have no personal liability with respect to any claim arising out of or resulting from any act or omission by such person, within the scope of the service of the member on the State Commission or alternative administrative entity.

(B) LIMITATION.—This paragraph shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of such member on the State Commission or alternative administrative entity.

(3) EFFECT ON OTHER LAW.—This subsection shall not be construed—

(A) to affect any other immunities and protections that may be available to such member under applicable law with respect to such service;

(B) to affect any other right or remedy against the State under applicable law, or against any person other than a member of the State Commission or alternative administrative entity; or

(C) to limit or alter in any way the immunities that are available under applicable law for State officials and employees not described in this subsection.

SEC. 179. [42 U.S.C. 12639] EVALUATION.

(a) IN GENERAL.—The Corporation shall provide, through grants or contracts, for the continuing evaluation of programs that receive assistance under the national service laws, including evaluations that measure the impact of such programs, to determine—

(1) the effectiveness of various program models in achieving stated goals and the costs associated with such;

(2) with respect to the programs authorized under subtitle C, the impact of such programs, in each State in which a program is conducted, on the ability of—

(A) the VISTA and National Senior Volunteer Corps programs (established under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 4950 et seq.));

(B) each regular component of the Armed Forces (as defined in section 101(a)(4) of title 10, United States Code);

(C) each of the reserve components of the Armed Forces (as described in section 10101 of title 10, United States Code); and

(D) the Peace Corps (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.));
to recruit individuals residing in such State to serve in such program; and

(3) the structure and mechanisms for delivery of services for such programs.

(b) **COMPARISONS.**—The Corporation shall provide for inclusion in the evaluations required under subsection (a), where appropriate, comparisons of participants in such programs with individuals who have not participated in such programs.

(c) **CONDUCTING EVALUATIONS.**—Evaluations of programs under subsection (a) shall be conducted by individuals who are not directly involved in the administration of such program.

(d) **STANDARDS.**—The Corporation shall develop and publish general standards for the evaluation of program effectiveness in achieving the objectives of the national service laws.

(e) **COMMUNITY PARTICIPATION.**—In evaluating a program receiving assistance under the national service laws, the Corporation shall consider the opinions of participants and members of the communities where services are delivered concerning the strengths and weaknesses of such program.

(f) **COMPARISON OF PROGRAM MODELS.**—The Corporation shall evaluate and compare the effectiveness of different program models in meeting the program objectives described in subsection (g) including full- and part-time programs, programs involving different types of national service, programs using different recruitment methods, programs offering alternative voucher or post-service benefit options, and programs utilizing individual placements and teams.

(g) **PROGRAM OBJECTIVES.**—The Corporation shall ensure that programs that receive assistance under subtitle C are evaluated to determine their effectiveness in—

(1) recruiting and enrolling diverse participants in such programs, consistent with the requirements of section 145, based on economic background, race, ethnicity, age, marital status, education levels, and disability;

(2) promoting the educational achievement of each participant in such programs, based on earning a high school diploma or the equivalent of such diploma and the future enrollment and completion of increasingly higher levels of education;

(3) encouraging each participant to engage in public and community service after completion of the program based on career choices and service in other service programs such as the Volunteers in Service to America Program and National Senior Volunteer Corps programs established under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.),

the Peace Corps (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)), the military, and part-time volunteer service;

(4) promoting of positive attitudes among each participant regarding the role of such participant in solving community problems based on the view of such participant regarding the personal capacity of such participant to improve the lives of others, the responsibilities of such participant as a citizen and community member, and other factors;

(5) enabling each participant to finance a lesser portion of the higher education of such participant through student loans;

(6) providing services and projects that benefit the community;

(7) supplying additional volunteer assistance to community agencies without overloading such agencies with more volunteers than can effectively be utilized;

(8) providing services and activities that could not otherwise be performed by employed workers and that will not supplant the hiring of, or result in the displacement of, employed workers or impair the existing contracts of such workers; and

(9) attracting a greater number of citizens to public service, including service in the active and reserve components of the Armed Forces, the National Guard, the Peace Corps (as established by the Peace Corps Act (22 U.S.C. 2501 et seq.)), and the VISTA and National Senior Volunteer Corps programs established under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.).

(h) OBTAINING INFORMATION.—

(1) IN GENERAL.—In conducting the evaluations required under this section, the Corporation may require each program participant and State or local applicant to provide such information as may be necessary to carry out the requirements of this section.

(2) CONFIDENTIALITY.—

(A) IN GENERAL.—The Corporation shall maintain the confidentiality of information acquired under this subsection regarding individual participants.

(B) DISCLOSURE.—

(i) CONSENT.—The content of any information described in subparagraph (A) may be disclosed with the prior written consent of the individual participant with respect to whom the information is maintained.

(ii) AGGREGATE INFORMATION.—The Corporation may disclose information about the aggregate characteristics of such participants.

(i) INDEPENDENT EVALUATION AND REPORT OF DEMOGRAPHICS OF NATIONAL SERVICE PARTICIPANTS AND COMMUNITIES.—

(1) INDEPENDENT EVALUATION.—

(A) IN GENERAL.—The Corporation shall, on an annual basis, arrange for an independent evaluation of the programs assisted under subtitle C.

(B) PARTICIPANTS.—

(i) IN GENERAL.—The entity conducting such evaluation shall determine the demographic characteristics of the participants in such programs.

(ii) CHARACTERISTICS.—The entity shall determine, for the year covered by the evaluation, the total number of participants in the programs, and the number of participants within the programs in each State, by sex, age, economic background, education level, ethnic group, disability classification, and geographic region.

(iii) CATEGORIES.—The Corporation shall determine appropriate categories for analysis of each of the characteristics referred to in clause (ii) for purposes of such an evaluation.

(C) COMMUNITIES.—In conducting the evaluation, the entity shall determine the amount of assistance provided under section 121 during the year that has been expended for projects conducted under the programs in areas described in section 133(c)(6).

(2) REPORT.—The entity conducting the evaluation shall submit a report to the President, Congress, the Corporation, and each State Commission containing the results of the evaluation—

(A) with respect to the evaluation covering the year beginning on the date of enactment of this subsection, not later than 18 months after such date; and

(B) with respect to the evaluation covering each subsequent year, not later than 18 months after the first day of each such year.

SEC. 180. [42 U.S.C. 12640] ENGAGEMENT OF PARTICIPANTS.

A State shall not engage a participant to serve in any program that receives assistance under this title unless and until amounts have been appropriated under section 501 for the provision of national service educational awards and for the payment of other necessary expenses and costs associated with such participant.

SEC. 181. [42 U.S.C. 12641] CONTINGENT EXTENSION.

Section 414¹ of the General Education Provisions Act (20 U.S.C. 1226a) shall apply to this Act.

SEC. 182. [42 U.S.C. 12642] PARTNERSHIPS WITH SCHOOLS.

(a) DESIGN OF PROGRAMS.—The head of each Federal agency and department shall design and implement a comprehensive strategy to involve employees of such agencies and departments in partnership programs with elementary schools and secondary schools. Such strategy shall include—

(1) a review of existing programs to identify and expand the opportunities for such employees to be adult volunteers in schools and for students and out-of-school youth;

(2) the designation of a senior official in each such agency and department who will be responsible for establishing partnership and youth service programs in each such agency and department and for developing partnership and youth service programs;

¹So in law. The reference in section 181 to section 414 of the General Education Provisions Act should be to section 422. Section 414 was renumbered as section 422 by section 212(b)(1) of Public Law 103-382 (108 Stat. 3913).

(3) the encouragement of employees of such agencies and departments to participate in partnership programs and other service projects;

(4) the annual recognition of outstanding service programs operated by Federal agencies; and

(5) the encouragement of businesses and professional firms to include community service among the factors considered in making hiring, compensation, and promotion decisions.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, and on a regular basis thereafter, the head of each Federal agency and department shall prepare and submit, to the appropriate Committees of Congress, a report concerning the implementation of this section.

SEC. 183. [42 U.S.C. 12643] RIGHTS OF ACCESS, EXAMINATION, AND COPYING.

(a) COMPTROLLER GENERAL.—The Comptroller General, or any of the duly authorized representatives of the Comptroller General, shall have access to, and the right to examine and copy, any books, documents, papers, records, and other recorded information in any form—

(1) within the possession or control of the Corporation or any State or local government, Indian tribe, or public or private nonprofit organization receiving assistance directly or indirectly under this Act; and

(2) that the Comptroller General, or his representative, considers necessary to the performance of an evaluation, audit, or review.

(b) CHIEF FINANCIAL OFFICER.—The Chief Financial Officer of the Corporation shall have access to, and the right to examine and copy, any books, documents, papers, records, and other recorded information in any form—

(1) within the possession or control of the Corporation or any State or local government, Indian tribe, or public or private nonprofit organization receiving assistance directly or indirectly under this Act; and

(2) that relates to the duties of the Chief Financial Officer.

SEC. 184. [42 U.S.C. 12644] DRUG-FREE WORKPLACE REQUIREMENTS.

All programs receiving grants under this title shall be subject to the Drug-Free Workplace Requirements for Federal Grant Recipients under sections 5153 through 5158 of the Anti-Drug Abuse Act of 1988 (41 U.S.C. 702–707).

Subtitle G—Corporation for National and Community Service

SEC. 191. [42 U.S.C. 12651] CORPORATION FOR NATIONAL AND COMMUNITY SERVICE.

There is established a Corporation for National and Community Service that shall administer the programs established under the national service laws. The Corporation shall be a Government corporation, as defined in section 103 of title 5, United States Code.

SEC. 192. [42 U.S.C. 12651a] BOARD OF DIRECTORS.

(a) COMPOSITION.—

(1) IN GENERAL.—There shall be in the Corporation a Board of Directors (referred to in this subtitle as the “Board”) that shall be composed of—

(A) 15 members, including an individual between the ages of 16 and 25 who—

(i) has served in a school-based or community-based service-learning program; or

(ii) is or was a participant or a supervisor in a program;

to be appointed by the President, by and with the advice and consent of the Senate; and

(B) the ex officio nonvoting members described in paragraph (3).

(2) QUALIFICATIONS.—To the maximum extent practicable, the President shall appoint members—

(A) who have extensive experience in volunteer or service activities, which may include programs funded under one of the national service laws, and in State government;

(B) who represent a broad range of viewpoints;

(C) who are experts in the delivery of human, educational, environmental, or public safety services;

(D) so that the Board shall be diverse according to race, ethnicity, age, gender, and disability characteristics; and

(E) so that no more than 50 percent of the appointed members of the Board, plus 1 additional appointed member, are from a single political party.

(3) EX OFFICIO MEMBERS.—The Secretary of Education, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Housing and Urban Development, the Secretary of Defense, the Attorney General, the Director of the Peace Corps, the Administrator of the Environmental Protection Agency, and the Chief Executive Officer shall serve as ex officio nonvoting members of the Board.

(b) OFFICERS.—

(1) CHAIRPERSON.—The President shall appoint a member of the Board to serve as the initial Chairperson of the Board. Each subsequent Chairperson shall be elected by the Board from among its members.

(2) VICE CHAIRPERSON.—The Board shall elect a Vice Chairperson from among its membership.

(3) OTHER OFFICERS.—The Board may elect from among its membership such additional officers of the Board as the Board determines to be appropriate.

(c) TERMS.—Each appointed member of the Board shall serve for a term of 5 years, except that, as designated by the President—

(1) 3 of the members first appointed to the Board shall serve for a term of 1 year;

(2) 3 of the members first appointed to the Board shall serve for a term of 2 years;

(3) 3 of the members first appointed to the Board shall serve for a term of 3 years;

(4) 3 of the members first appointed to the Board shall serve for a term of 4 years; and

(5) 3 of the members first appointed to the Board shall serve for a term of 5 years.

(d) VACANCIES.—If a vacancy occurs on the Board, a new member shall be appointed by the President, by and with the advice and consent of the Senate, and serve for the remainder of the term for which the predecessor of such member was appointed. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

SEC. 192A. [42 U.S.C. 12651b] AUTHORITIES AND DUTIES OF THE BOARD OF DIRECTORS.

(a) MEETINGS.—The Board shall meet not less often than 3 times each year. The Board shall hold additional meetings at the call of the Chairperson of the Board, or if 6 members of the Board request such meetings in writing.

(b) QUORUM.—A majority of the appointed members of the Board shall constitute a quorum.

(c) AUTHORITIES OF OFFICERS.—

(1) CHAIRPERSON.—The Chairperson of the Board may call and conduct meetings of the Board.

(2) VICE CHAIRPERSON.—The Vice Chairperson of the Board may conduct meetings of the Board in the absence of the Chairperson.

(d) EXPENSES.—While away from their homes or regular places of business on the business of the Board, members of such Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for persons employed intermittently in the Government service.

(e) SPECIAL GOVERNMENT EMPLOYEES.—For purposes of the provisions of chapter 11 of part I of title 18, United States Code, and any other provision of Federal law, a member of the Board (to whom such provisions would not otherwise apply except for this subsection) shall be a special Government employee.

(f) STATUS OF MEMBERS.—

(1) TORT CLAIMS.—For the purposes of the tort claims provisions of chapter 171 of title 28, United States Code, a member of the Board shall be considered to be a Federal employee.

(2) OTHER CLAIMS.—A member of the Board shall have no personal liability under Federal law with respect to any claim arising out of or resulting from any act or omission by such person, within the scope of the service of the member on the Board, in connection with any transaction involving the provision of financial assistance by the Corporation. This paragraph shall not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of such member on the Board.

(3) EFFECT ON OTHER LAW.—This subsection shall not be construed—

(A) to affect any other immunities and protections that may be available to such member under applicable law with respect to such transactions;

(B) to affect any other right or remedy against the Corporation, against the United States under applicable law, or against any person other than a member of the Board participating in such transactions; or

(C) to limit or alter in any way the immunities that are available under applicable law for Federal officials and employees not described in this subsection.

(g) DUTIES.—The Board shall—

(1) review and approve the strategic plan described in section 193A(b)(1), and annual updates of the plan;

(2) review and approve the proposal described in section 193A(b)(2)(A), with respect to the grants, allotments, contracts, financial assistance, payment, and positions referred to in such section;

(3) review and approve the proposal described in section 193A(b)(3)(A), regarding the regulations, standards, policies, procedures, programs, and initiatives referred to in such section;

(4) review and approve the evaluation plan described in section 193A(b)(4)(A);

(5)(A) review, and advise the Chief Executive Officer regarding, the actions of the Chief Executive Officer with respect to the personnel of the Corporation, and with respect to such standards, policies, procedures, programs, and initiatives as are necessary or appropriate to carry out the national service laws; and

(B) inform the Chief Executive Officer of any aspects of the actions of the Chief Executive Officer that are not in compliance with the annual strategic plan referred to in paragraph (1), the proposals referred to in paragraphs (2) and (3), or the plan referred to in paragraph (4), or are not consistent with the objectives of the national service laws;

(6) receive any report as provided under subsection (b), (c), or (d) of section 8E of the Inspector General Act of 1978;

(7) make recommendations relating to a program of research for the Corporation with respect to national and community service programs, including service-learning programs;

(8) advise the President and the Congress concerning developments in national and community service that merit the attention of the President and the Congress;

(9) ensure effective dissemination of information regarding the programs and initiatives of the Corporation;

(10) notwithstanding any other provision of law, make grants to or contracts with Federal or other public departments or agencies and private nonprofit organizations for the assignment or referral of volunteers under the provisions of the Domestic Volunteer Service Act of 1973 (except as provided in section 108 of the Domestic Volunteer Service Act of 1973), which may provide that the agency or organization shall pay all or a part of the costs of the program; and

(11) prepare and make recommendations to the Congress and the President for changes in the national service laws resulting from the studies and demonstrations the Chief Executive Officer is required to carry out under section 193A(b)(10),

which recommendations shall be submitted to the Congress and President not later than September 30, 1995.

(h) ADMINISTRATION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Board.

(i) LIMITATION ON PARTICIPATION.—All employees and officers of the Corporation shall recuse themselves from decisions that would constitute conflicts of interest.

(j) COORDINATION WITH OTHER FEDERAL ACTIVITIES.—As part of the agenda of meetings of the Board under subsection (a), the Board shall review projects and programs conducted or funded by the Corporation under the national service laws to improve the coordination between such projects and programs, and the activities of other Federal agencies that deal with the individuals and communities participating in or benefiting from such projects and programs. The ex officio members of the Board specified in section 192(a)(3) shall jointly plan, implement, and fund activities in connection with projects and programs conducted under the national service laws to ensure that Federal efforts attempt to address the total needs of participants in such programs and projects, their communities, and the persons and communities the participants serve.

SEC. 193. [42 U.S.C. 12651c] CHIEF EXECUTIVE OFFICER.

(a) APPOINTMENT.—The Corporation shall be headed by an individual who shall serve as Chief Executive Officer of the Corporation, and who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) COMPENSATION.—The Chief Executive Officer shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(c) REGULATIONS.—The Chief Executive Officer shall prescribe such rules and regulations as are necessary or appropriate to carry out the national service laws.

SEC. 193A. [42 U.S.C. 12651d] AUTHORITIES AND DUTIES OF THE CHIEF EXECUTIVE OFFICER.

(a) GENERAL POWERS AND DUTIES.—The Chief Executive Officer shall be responsible for the exercise of the powers and the discharge of the duties of the Corporation that are not reserved to the Board, and shall have authority and control over all personnel of the Corporation, except as provided in section 8E of the Inspector General Act of 1978.

(b) DUTIES.—In addition to the duties conferred on the Chief Executive Officer under any other provision of the national service laws, the Chief Executive Officer shall—

(1) prepare and submit to the Board a strategic plan every 3 years, and annual updates of the plan, for the Corporation with respect to the major functions and operations of the Corporation;

(2)(A) prepare and submit to the Board a proposal with respect to such grants and allotments, contracts, other financial assistance, and designation of positions as approved national service positions, as are necessary or appropriate to carry out the national service laws; and

(B) after receiving and reviewing an approved proposal under section 192A(g)(2), make such grants and allotments,

enter into such contracts, award such other financial assistance, make such payments (in lump sum or installments, and in advance or by way of reimbursement, and in the case of financial assistance otherwise authorized under the national service laws, with necessary adjustments on account of overpayments and underpayments), and designate such positions as approved national service positions as are necessary or appropriate to carry out the national service laws;

(3)(A) prepare and submit to the Board a proposal regarding the regulations established under section 195(b)(3)(A), and such other standards, policies, procedures, programs, and initiatives as are necessary or appropriate to carry out the national service laws; and

(B) after receiving and reviewing an approved proposal under section 192A(g)(3)—

(i) establish such standards, policies, and procedures as are necessary or appropriate to carry out the national service laws; and

(ii) establish and administer such programs and initiatives as are necessary or appropriate to carry out the national service laws;

(4)(A) prepare and submit to the Board a plan for the evaluation of programs established under the national service laws, in accordance with section 179; and

(B) after receiving an approved proposal under section 192A(g)(4)—

(i) establish measurable performance goals and objectives for such programs, in accordance with section 179; and

(ii) provide for periodic evaluation of such programs to assess the manner and extent to which the programs achieve the goals and objectives, in accordance with such section;

(5) consult with appropriate Federal agencies in administering the programs and initiatives;

(6) suspend or terminate payments and positions described in paragraph (2)(B), in accordance with section 176;

(7) prepare and submit to the Board an annual report, and such interim reports as may be necessary, describing the major actions of the Chief Executive Officer with respect to the personnel of the Corporation, and with respect to such standards, policies, procedures, programs, and initiatives;

(8) inform the Board of, and provide an explanation to the Board regarding, any substantial differences regarding the implementation of the national service laws between—

(A) the actions of the Chief Executive Officer; and

(B)(i) the strategic plan approved by the Board under section 192A(g)(1);

(ii) the proposals approved by the Board under paragraph (2) or (3) of section 192A(g); or

(iii) the evaluation plan approved by the Board under section 192A(g)(4);

(9) prepare and submit to the appropriate committees of Congress an annual report, and such interim reports as may be necessary, describing—

- (A) the services referred to in paragraph (1), and the money and property referred to in paragraph (2), of section 196(a) that have been accepted by the Corporation;
- (B) the manner in which the Corporation used or disposed of such services, money, and property; and
- (C) information on the results achieved by the programs funded under the national service laws during the year preceding the year in which the report is prepared;
- (10) provide for studies (including the evaluations described in subsection (f)) and demonstrations that evaluate, and prepare and submit to the Board by June 30, 1995, a report containing recommendations regarding, issues related to—
- (A) the administration and organization of programs authorized under the national service laws or under Public Law 91-378 (referred to in this subparagraph as “service programs”), including—
- (i) whether the State and national priorities designed to meet the unmet human, education, environmental, or public safety needs described in section 122(c)(1) are being addressed by this Act;
- (ii) the manner in which—
- (I) educational and other outcomes of both stipended and nonstipended service and service-learning are defined and measured in such service programs; and
- (II) such outcomes should be defined and measured in such service programs;
- (iii) whether stipended service programs, and service programs providing educational benefits in return for service, should focus on economically disadvantaged individuals or at-risk youth or whether such programs should include a mix of individuals, including individuals from middle- and upper-income families;
- (iv) the role and importance of stipends and educational benefits in achieving desired outcomes in the service programs;
- (v) the potential for cost savings and coordination of support and oversight services from combining functions performed by ACTION State offices and State Commissions;
- (vi) the implications of the results from such studies and demonstrations for authorized funding levels for the service programs; and
- (vii) other issues that the Director determines to be relevant to the administration and organization of the service programs; and
- (B) the number, potential consolidation, and future organization of national service or domestic volunteer service programs that are authorized under Federal law, including VISTA, service corps assisted under subtitle C and other programs authorized by this Act, programs administered by the Public Health Service, the Department of Defense, or other Federal agencies, programs regarding teacher corps, and programs regarding work-study and higher edu-

cation loan forgiveness or forbearance programs authorized by the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) related to community service; and

(11) for purposes of section 178(d)(6)(B), issue regulations to waive the disqualification of members of the Board and members of the State Commissions selectively in a random, nondiscretionary manner and only to the extent necessary to establish the quorum involved, including rules that forbid each member of the Board and each voting member of a State Commission to participate in any discussion or decision regarding the provision of assistance or approved national service positions, or the continuation, suspension, or termination of such assistance or such positions, to any program or entity of which such member of the Board or such member of the State Commission is, or in the 1-year period before the submission of the application referred to in such section was, an officer, director, trustee, full-time volunteer, or employee.

(c) **POWERS.**—In addition to the authority conferred on the Chief Executive Officer under any other provision of the national service laws, the Chief Executive Officer may—

(1) establish, alter, consolidate, or discontinue such organizational units or components within the Corporation as the Chief Executive Officer considers necessary or appropriate, consistent with Federal law, and shall, to the maximum extent practicable, consolidate such units or components of the divisions of the Corporation described in section 194(a)(3) as may be appropriate to enable the two divisions to coordinate common support functions;

(2) with the approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of the provisions of the national service laws;

(3) with their consent, utilize the services and facilities of Federal agencies with or without reimbursement, and, with the consent of any State, or political subdivision of a State, accept and utilize the services and facilities of the agencies of such State or subdivisions without reimbursement;

(4) allocate and expend funds made available under the national service laws;

(5) disseminate, without regard to the provisions of section 3204 of title 39, United States Code, data and information, in such form as the Chief Executive Officer shall determine to be appropriate to public agencies, private organizations, and the general public;

(6) collect or compromise all obligations to or held by the Chief Executive Officer and all legal or equitable rights accruing to the Chief Executive Officer in connection with the payment of obligations in accordance with chapter 37 of title 31, United States Code (commonly known as the “Federal Claims Collection Act of 1966”);

(7) file a civil action in any court of record of a State having general jurisdiction or in any district court of the United States, with respect to a claim arising under this Act;

(8) exercise the authorities of the Corporation under section 196;

(9) consolidate the reports to Congress required under the national service laws, and the report required under section 9106 of title 31, United States Code, into a single report, and submit the report to Congress on an annual basis; and

(10) generally perform such functions and take such steps consistent with the objectives and provisions of the national service laws, as the Chief Executive Officer determines to be necessary or appropriate to carry out such provisions.

(d) DELEGATION.—

(1) DEFINITION.—As used in this subsection, the term “function” means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

(2) IN GENERAL.—Except as otherwise prohibited by law or provided in the national service laws, the Chief Executive Officer may delegate any function under this Act, and authorize such successive redelegations of such function as may be necessary or appropriate. No delegation of a function by the Chief Executive Officer under this subsection or under any other provision of this Act shall relieve such Chief Executive Officer of responsibility for the administration of such function.

(3) FUNCTION OF BOARD.—The Chief Executive Officer may not delegate a function of the Board without the permission of the Board.

(e) ACTIONS.—In an action described in subsection (c)(7)—

(1) a district court referred to in such subsection shall have jurisdiction of such a civil action without regard to the amount in controversy;

(2) such an action brought by the Chief Executive Officer shall survive notwithstanding any change in the person occupying the office of Chief Executive Officer or any vacancy in that office;

(3) no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Chief Executive Officer or the Board or property under the control of the Chief Executive Officer or the Board; and

(4) nothing in this section shall be construed to except litigation arising out of activities under this Act from the application of sections 509, 517, 547, and 2679 of title 28, United States Code.

(f) EVALUATIONS.—

(1) EVALUATION OF LIVING ALLOWANCE.—The Corporation shall arrange for an independent evaluation to determine the levels of living allowances paid in all programs under subtitles C and I, individually, by State, and by region. Such evaluation shall determine the effects that such living allowances have had on the ability of individuals to participate in such programs.

(2) EVALUATION OF SUCCESS OF INVESTMENT IN NATIONAL SERVICE.—

(A) EVALUATION REQUIRED.—The Corporation shall arrange for the independent evaluation of the operation of subtitle C to determine the levels of participation of economically disadvantaged individuals in national service programs carried out or supported using assistance provided under section 121.

(B) PERIOD COVERED BY EVALUATION.—The evaluation required by this paragraph shall cover the period beginning on the date the Corporation first makes a grant under section 121, and ending on a date that is as close as is practicable to the date specified in subsection (b)(10).

(C) INCOME LEVELS OF PARTICIPANTS.—The evaluating entity shall determine the total income of each participant who serves, during the period covered by the evaluation, in a national service program carried out or supported using assistance provided under section 121 or in an approved national service position. The total income of the participant shall be determined as of the date the participant was first selected to participate in such a program and shall include family total income unless the evaluating entity determines that the participant was independent at the time of selection.

(D) ASSISTANCE FOR DISTRESSED AREAS.—The evaluating entity shall also determine the amount of assistance provided under section 121 during the period covered by the report that has been expended for projects conducted in areas of economic distress described in section 133(c)(6).

(E) DEFINITIONS.—As used in this paragraph:

(i) INDEPENDENT.—The term “independent” has the meaning given the term in section 480(d) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(d)).

(ii) TOTAL INCOME.—The term “total income” has the meaning given the term in section 480(a) of the Higher Education Act of 1965 (20 U.S.C. 1087vv(a)).

(g) RECRUITMENT AND PUBLIC AWARENESS FUNCTIONS.—

(1) EFFORT.—The Chief Executive Officer shall ensure that the Corporation, in carrying out the recruiting and public awareness functions of the Corporation, shall expend at least the level of effort on recruitment and public awareness activities related to the programs carried out under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.) as ACTION expended on recruitment and public awareness activities related to programs under the Domestic Volunteer Service Act of 1973 during fiscal year 1993.

(2) PERSONNEL.—The Chief Executive Officer shall assign or hire, as necessary, such additional national, regional, and State personnel to carry out such recruiting and public awareness functions as may be necessary to ensure that such functions are carried out in a timely and effective manner. The Chief Executive Officer shall give priority in the hiring of such additional personnel to individuals who have formerly served as volunteers in the programs carried out under the Domestic Volunteer Service Act of 1973 or similar programs, and to individuals who have specialized experience in the recruitment of volunteers.

(3) FUNDS.—For the first fiscal year after the effective date of this subsection, and for each fiscal year thereafter, for the purpose of carrying out such recruiting and public awareness functions, the Chief Executive Officer shall obligate not less than 1.5 percent of the amounts appropriated for the fiscal

year under section 501(a) of the Domestic Volunteer Service Act of 1973.

SEC. 194. [42 U.S.C. 12651e] OFFICERS.

(a) MANAGING DIRECTORS.—

(1) **IN GENERAL.**—There shall be in the Corporation 2 Managing Directors, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall report to the Chief Executive Officer.

(2) **COMPENSATION.**—The Managing Directors shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(3) **DUTIES.**—The Corporation shall determine the programs for which the Managing Directors shall have primary responsibility and shall establish the divisions of the Corporation to be headed by the Managing Directors.

(b) INSPECTOR GENERAL.—

(1) **OFFICE.**—There shall be in the Corporation an Office of the Inspector General.

(2) **APPOINTMENT.**—The Office shall be headed by an Inspector General, appointed in accordance with the Inspector General Act of 1978.

(3) **COMPENSATION.**—The Inspector General shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) CHIEF FINANCIAL OFFICER.—

(1) **OFFICE.**—There shall be in the Corporation a Chief Financial Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) **COMPENSATION.**—The Chief Financial Officer shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(3) **DUTIES.**—The Chief Financial Officer shall—

(A) report directly to the Chief Executive Officer regarding financial management matters;

(B) oversee all financial management activities relating to the programs and operations of the Corporation;

(C) develop and maintain an integrated accounting and financial management system for the Corporation, including financial reporting and internal controls;

(D) develop and maintain any joint financial management systems with the Department of Education necessary to carry out the programs of the Corporation; and

(E) direct, manage, and provide policy guidance and oversight of the financial management personnel, activities, and operations of the Corporation.

(d) ASSISTANT DIRECTORS FOR VISTA AND NATIONAL SENIOR VOLUNTEER CORPS.—

(1) **APPOINTMENT.**—One of the Managing Directors appointed under subsection (a) shall, in accordance with applicable provisions of title 5, United States Code, appoint 4 Assistant Directors who shall report directly to such Managing Director, of which—

(A) 1 Assistant Director shall be responsible for programs carried out under parts A and B of title I of the Do-

mestic Volunteer Service Act of 1973 (the Volunteers in Service to America (VISTA) program) and other anti-poverty programs under title I of that Act;

(B) 1 Assistant Director shall be responsible for programs carried out under part A of title II of that Act (relating to the Retired Senior Volunteer Program);

(C) 1 Assistant Director shall be responsible for programs carried out under part B of title II of that Act (relating to the Foster Grandparent Program); and

(D) 1 Assistant Director shall be responsible for programs carried out under part C of title II of that Act (relating to the Senior Companion Program).

(2) EFFECTIVE DATE FOR EXERCISE OF AUTHORITY.—Each Assistant Director appointed pursuant to paragraph (1) may exercise the authority assigned to each such Director only after the effective date of section 203(c)(2) of the National and Community Service Trust Act of 1993.

SEC. 195. [42 U.S.C. 12651f] EMPLOYEES, CONSULTANTS, AND OTHER PERSONNEL.

(a) EMPLOYEES.—Except as provided in subsection (b), section 194(d), and section 8E of the Inspector General Act of 1978, the Chief Executive Officer shall, in accordance with applicable provisions of title 5, United States Code, appoint and determine the compensation of such employees as the Chief Executive Officer determines to be necessary to carry out the duties of the Corporation.

(b) ALTERNATIVE PERSONNEL SYSTEM.—

(1) AUTHORITY.—The Chief Executive Officer may designate positions in the Corporation as positions to which the Chief Executive Officer may make appointments, and for which the Chief Executive Officer may determine compensation, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, to the extent the Chief Executive Officer determines that such a designation is appropriate and desirable to further the effective operation of the Corporation. The Chief Executive Officer may provide for appointments to such positions to be made on a limited term basis.

(2) APPOINTMENT IN THE COMPETITIVE SERVICE AFTER EMPLOYMENT UNDER ALTERNATIVE PERSONNEL SYSTEM.—The Director of the Office of Personnel Management may grant competitive status for appointment to the competitive service, under such conditions as the Director may prescribe, to an employee who is appointed under this subsection and who is separated from the Corporation (other than by removal for cause).

(3) SELECTION AND COMPENSATION SYSTEM.—

(A) ESTABLISHMENT OF SYSTEM.—The Chief Executive Officer, after obtaining the approval of the Director of the Office of Personnel Management, shall issue regulations establishing a selection and compensation system for employees of the Corporation appointed under paragraph (1). In issuing such regulations, the Chief Executive Officer shall take into consideration the need for flexibility in such a system.

(B) APPLICATION.—The Chief Executive Officer shall appoint and determine the compensation of employees in accordance with the selection and compensation system established under subparagraph (A).

(C) SELECTION.—The system established under subparagraph (A) shall provide for the selection of employees—

(i) through a competitive process; and

(ii) on the basis of the qualifications of applicants and the requirements of the positions.

(D) COMPENSATION.—The system established under subparagraph (A) shall include a scheme for the classification of positions in the Corporation. The system shall require that the compensation of an employee be determined in part on the basis of the job performance of the employee, and in a manner consistent with the principles described in section 5301 of title 5, United States Code. The rate of compensation for each employee compensated under the system shall not exceed the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(c) CORPORATION REPRESENTATIVE IN EACH STATE.—

(1) DESIGNATION OF REPRESENTATIVE.—The Corporation shall designate 1 employee of the Corporation for each State or group of States to serve as the representative of the Corporation in the State or States and to assist the Corporation in carrying out the activities described in the national service laws in the State or States.

(2) DUTIES.—The representative designated under this subsection for a State or group of States shall serve as the liaison between—

(A) the Corporation and the State Commission that is established in the State or States;

(B) the Corporation and any subdivision of a State, Indian tribe, public or private nonprofit organization, or institution of higher education, in the State or States, that is awarded a grant under section 121 directly from the Corporation; and

(C) after the effective date of section 203(c)(2) of the National and Community Service Trust Act of 1993, the State Commission and the Corporation employee responsible for programs under the Domestic Volunteer Service Act of 1973 in the State, if the employee is not the representative described in paragraph (1) for the State.

(3) MEMBER OF STATE COMMISSION.—The representative designated under this subsection for a State or group of States shall also serve as a member of the State Commission established in the State or States, as described in section 178(c)(3).

(4) COMPENSATION.—If the employee designated under paragraph (1) is an employee whose appointment was made pursuant to section 195(b), the rate of compensation for such employee may not exceed the maximum rate of basic pay payable for GS-13 of the General Schedule under section 5332 of title 5, United States Code.

(d) CONSULTANTS.—The Chief Executive Officer may procure the temporary and intermittent services of experts and consultants and compensate the experts and consultants in accordance with section 3109(b) of title 5, United States Code.

(e) DETAILS OF PERSONNEL.—The head of any Federal department or agency may detail on a reimbursable basis, or on a non-reimbursable basis for not to exceed 180 calendar days during any fiscal year, as agreed upon by the Chief Executive Officer and the head of the Federal agency, any of the personnel of that department or agency to the Corporation to assist the Corporation in carrying out the duties of the Corporation under the national service laws. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(f) ADVISORY COMMITTEES.—

(1) ESTABLISHMENT.—The Chief Executive Officer, acting upon the recommendation of the Board, may establish advisory committees in the Corporation to advise the Board with respect to national service issues, such as the type of programs to be established or assisted under the national service laws, priorities and criteria for such programs, and methods of conducting outreach for, and evaluation of, such programs.

(2) COMPOSITION.—Such an advisory committee shall be composed of members appointed by the Chief Executive Officer, with such qualifications as the Chief Executive Officer may specify.

(3) EXPENSES.—Members of such an advisory committee may be allowed travel expenses as described in section 192A(d).

(4) STAFF.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Chief Executive Officer is authorized to appoint and fix the compensation of such staff as the Chief Executive Officer determines to be necessary to carry out the functions of the advisory committee, without regard to—

(i) the provisions of title 5, United States Code, governing appointments in the competitive service; and

(ii) the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(B) COMPENSATION.—If a member of the staff appointed under subparagraph (A) was appointed without regard to the provisions described in clauses (i) and (ii) of subparagraph (A), the rate of compensation for such member may not exceed the maximum rate of basic pay payable for GS-13 of the General Schedule under section 5332 of title 5, United States Code.

SEC. 196. [42 U.S.C. 12651g] ADMINISTRATION.

(a) DONATIONS.—

(1) SERVICES.—

(A) VOLUNTEERS.—Notwithstanding section 1342 of title 31, United States Code, the Corporation may solicit and accept the voluntary services of individuals to assist the Corporation in carrying out the duties of the Corpora-

tion under the national service laws, and may provide to such individuals the travel expenses described in section 192A(d).

(B) LIMITATION.—Such a volunteer shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits, except that—

(i) for the purposes of the tort claims provisions of chapter 171 of title 28, United States Code, a volunteer under this subtitle shall be considered to be a Federal employee;

(ii) for the purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, volunteers under this subtitle shall be considered to be employees, as defined in section 8101(1)(B) of title 5, United States Code, and the provisions of such subchapter shall apply; and

(iii) for purposes of the provisions of chapter 11 of part I of title 18, United States Code, such a volunteer (to whom such provisions would not otherwise apply except for this subsection) shall be a special Government employee.

(C) INHERENTLY GOVERNMENTAL FUNCTION.—

(i) IN GENERAL.—Such a volunteer shall not carry out an inherently governmental function.

(ii) REGULATIONS.—The Chief Executive Officer shall promulgate regulations to carry out this subparagraph.

(iii) INHERENTLY GOVERNMENTAL FUNCTION.—As used in this subparagraph, the term “inherently governmental function” means any activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of value judgment in making a decision for the Government.

(2) PROPERTY.—

(A) IN GENERAL.—The Corporation may solicit, accept, hold, administer, use, and dispose of, in furtherance of the purposes of the national service laws, donations of any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise. Donations accepted under this subparagraph shall be used as nearly as possible in accordance with the terms, if any, of such donation.

(B) STATUS OF CONTRIBUTION.—Any donation accepted under subparagraph (A) shall be considered to be a gift, devise, or bequest to, or for the use of, the United States.

(C) RULES.—The Chief Executive Officer shall establish written rules to ensure that the solicitation, accept-

ance, holding, administration, and use of property described in subparagraph (A)—

(i) will not reflect unfavorably upon the ability of the Corporation, or of any officer or employee of the Corporation, to carry out the responsibilities or official duties of the Corporation in a fair and objective manner; and

(ii) will not compromise the integrity of the programs of the Corporation or any official or employee of the Corporation involved in such programs.

(D) DISPOSITION.—Upon completion of the use by the Corporation of any property accepted pursuant to subparagraph (A) (other than money or monetary proceeds from sales of property so accepted), such completion shall be reported to the General Services Administration and such property shall be disposed of in accordance with title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.).

(3) VOLUNTEER.—As used in this subsection, the term “volunteer” does not include a participant.

(b) CONTRACTS.—Subject to the Federal Property and Administrative Services Act of 1949, the Corporation may enter into contracts, and cooperative and interagency agreements, with Federal and State agencies, private firms, institutions, and individuals to conduct activities necessary to assist the Corporation in carrying out the duties of the Corporation under the national service laws.

(c) OFFICE OF MANAGEMENT AND BUDGET.—Appropriate circulars of the Office of Management and Budget shall apply to the Corporation.

SEC. 196A. [42 U.S.C. 12651h] CORPORATION STATE OFFICES.

(a) IN GENERAL.—The Chief Executive Officer shall establish and maintain a decentralized field structure that provides for an office of the Corporation for each State. The office for a State shall be located in, or in reasonable proximity to, such State. Only one such office may carry out the duties described in subsection (b) with respect to a State at any particular time. Such State office may be directed by the representative designated under section 195(c).

(b) DUTIES.—Each State office established pursuant to subsection (a) shall—

(1) provide to the State Commissions established under section 178 technical and other assistance for the development and implementation of national service plans under section 178(e)(1);

(2) provide to community-based agencies and other entities within the State technical assistance for the preparation of applications for assistance under the national service laws, utilizing, as appropriate, information and materials provided by the clearinghouses established pursuant to section 198A;

(3) provide to the State Commission and other entities within the State support and technical assistance necessary to assure the existence of an effective system of recruitment, placement, and training of volunteers within the State;

(4) monitor and evaluate the performance of all programs and projects within the State that receive assistance under the national service laws; and

(5) perform such other duties and functions as may be assigned or delegated by the Chief Executive Officer.

Subtitle H—Investment for Quality and Innovation

SEC. 198. [42 U.S.C. 12653] ADDITIONAL CORPORATION ACTIVITIES TO SUPPORT NATIONAL SERVICE.

(a) **METHODS OF CONDUCTING ACTIVITIES.**—The Corporation may carry out this section directly (except as provided in subsection (r)) or through grants, contracts, and cooperative agreements with other entities.

(b) **INNOVATION AND QUALITY IMPROVEMENT.**—The Corporation may undertake activities to improve the quality of national service programs, including service-learning programs, and to support innovative and model programs, including—

(1) programs, including programs for rural youth, under subtitle B or C;

(2) employer-based retiree programs;

(3) intergenerational programs;

(4) programs involving individuals with disabilities as participants providing service; and

(5) programs sponsored by Governors.

(c) **SUMMER PROGRAMS.**—The Corporation may support service programs intended to be carried out between May 1 and October 1, except that such a program may also include a year-round component.

(d) **COMMUNITY-BASED AGENCIES.**—The Corporation may provide training and technical assistance and other assistance to service sponsors and other community-based agencies that provide volunteer placements in order to improve the ability of such agencies to use participants and other volunteers in a manner that results in high-quality service and a positive service experience for the participants and volunteers.

(e) **IMPROVE ABILITY TO APPLY FOR ASSISTANCE.**—The Corporation shall provide training and technical assistance, where necessary, to individuals, programs, local labor organizations, State educational agencies, State Commissions, local educational agencies, local governments, community-based agencies, and other entities to enable them to apply for funding under one of the national service laws, to conduct high-quality programs, to evaluate such programs, and for other purposes.

(f) **NATIONAL SERVICE FELLOWSHIPS.**—The Corporation may award national service fellowships.

(g) **CONFERENCES AND MATERIALS.**—The Corporation may organize and hold conferences, and prepare and publish materials, to disseminate information and promote the sharing of information among programs for the purpose of improving the quality of programs and projects.

(h) **PEACE CORPS AND VISTA TRAINING.**—The Corporation may provide training assistance to selected individuals who volunteer to

serve in the Peace Corps or a program authorized under title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.). The training shall be provided as part of the course of study of the individual at an institution of higher education, shall involve service-learning, and shall cover appropriate skills that the individual will use in the Peace Corps or VISTA.

(i) **PROMOTION AND RECRUITMENT.**—The Corporation may conduct a campaign to solicit funds for the National Service Trust and other programs and activities authorized under the national service laws and to promote and recruit participants for programs that receive assistance under the national service laws.

(j) **TRAINING.**—The Corporation may support national and regional participant and supervisor training, including leadership training and training in specific types of service and in building the ethic of civic responsibility.

(k) **RESEARCH.**—The Corporation may support research on national service, including service-learning.

(l) **INTERGENERATIONAL SUPPORT.**—The Corporation may assist programs in developing a service component that combines students, out-of-school youths, and older adults as participants to provide needed community services.

(m) **PLANNING COORDINATION.**—The Corporation may coordinate community-wide planning among programs and projects.

(n) **YOUTH LEADERSHIP.**—The Corporation may support activities to enhance the ability of youth and young adults to play leadership roles in national service.

(o) **NATIONAL PROGRAM IDENTITY.**—The Corporation may support the development and dissemination of materials, including training materials, and arrange for uniforms and insignia, designed to promote unity and shared features among programs that receive assistance under the national service laws.

(p) **SERVICE-LEARNING.**—The Corporation shall support innovative programs and activities that promote service-learning.

(q) **NATIONAL YOUTH SERVICE DAY.**—

(1) **DESIGNATION.**—April 19, 1994, and April 18, 1995, are each designated as “National Youth Service Day”. The President is authorized and directed to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

(2) **FEDERAL ACTIVITIES.**—In order to observe National Youth Service Day at the Federal level, the Corporation may organize and carry out appropriate ceremonies and activities.

(3) **ACTIVITIES.**—The Corporation may make grants to public or private nonprofit organizations with demonstrated ability to carry out appropriate activities, in order to support such activities on National Youth Service Day.

(r) **ASSISTANCE FOR HEAD START.**—The Corporation may make grants to, and enter into contracts and cooperative agreements with, public or nonprofit private agencies and organizations that receive grants or contracts under the Foster Grandparent Program (part B of title II of the Domestic Volunteer Service Act of 1973 (29 U.S.C. 5011 et seq.)), for projects of the type described in section 211(a) of such Act (29 U.S.C. 5011) operating under memoranda of agreement with the Corporation, for the purpose of increasing the number of low-income individuals who provide services under such

program to children who participate in Head Start programs under the Head Start Act (42 U.S.C 9831 et seq).

(s) MARTIN LUTHER KING, JR., SERVICE DAY.—

(1) ASSISTANCE.—The Corporation may make grants to eligible entities described in paragraph (2) to pay for the Federal share of the cost of planning and carrying out service opportunities in conjunction with the Federal legal holiday honoring the birthday of Martin Luther King, Jr. Such service opportunities shall consist of activities reflecting the life and teachings of Martin Luther King, Jr., such as cooperation and understanding among racial and ethnic groups, nonviolent conflict resolution, equal economic and educational opportunities, and social justice.

(2) ELIGIBLE ENTITIES.—Any entity otherwise eligible for assistance under the national services laws shall be eligible to receive a grant under this subsection.

(3) [repealed]

(4) FEDERAL SHARE.—Grants provided under this subsection to an eligible entity to support the planning and carrying out of a service opportunity in conjunction with the Federal legal holiday honoring the birthday of Martin Luther King, Jr., together with all other Federal funds used to plan or carry out the service opportunity, may not exceed 30 percent of the cost of planning and carrying out the service opportunity.

(5) CALCULATION OF ENTITY CONTRIBUTIONS.—In determining the non-Federal share of the costs of planning and carrying out a service opportunity supported by a grant under this subsection, the Corporation shall consider in-kind contributions (including facilities, equipment, and services) made to plan or carry out the service opportunity.

SEC. 198A. [42 U.S.C. 12653a] CLEARINGHOUSES.

(a) ASSISTANCE.—The Corporation shall provide assistance to appropriate entities to establish one or more clearinghouses, including the clearinghouse described in section 118.

(b) APPLICATION.—To be eligible to receive assistance under subsection (a), an entity shall submit an application to the Corporation at such time, in such manner, and containing such information as the Corporation may require.

(c) FUNCTION OF CLEARINGHOUSES.—An entity that receives assistance under subsection (a) may—

(1) assist entities carrying out State or local community service programs with needs assessments and planning;

(2) conduct research and evaluations concerning community service;

(3)(A) provide leadership development and training to State and local community service program administrators, supervisors, and participants; and

(B) provide training to persons who can provide the leadership development and training described in subparagraph (A);

(4) facilitate communication among entities carrying out community service programs and participants;

(5) provide information, curriculum materials, and technical assistance relating to planning and operation of commu-

nity service programs, to States and local entities eligible to receive funds under this title;

(6)(A) gather and disseminate information on successful community service programs, components of such successful programs, innovative youth skills curriculum, and community service projects; and

(B) coordinate the activities of the clearinghouse with appropriate entities to avoid duplication of effort;

(7) make recommendations to State and local entities on quality controls to improve the delivery of community service programs and on changes in the programs under this title; and

(8) carry out such other activities as the Chief Executive Officer determines to be appropriate.

SEC. 198B. [42 U.S.C. 12653b] PRESIDENTIAL AWARDS FOR SERVICE.

(a) **PRESIDENTIAL AWARDS.**—

(1) **IN GENERAL.**—The President, acting through the Corporation, may make Presidential awards for service to individuals providing significant service, and to outstanding service programs.

(2) **INDIVIDUALS AND PROGRAMS.**—Notwithstanding section 101(19)—

(A) an individual receiving an award under this subsection need not be a participant in a program authorized under this Act; and

(B) a program receiving an award under this subsection need not be a program authorized under this Act.

(3) **NATURE OF AWARD.**—In making an award under this section to an individual or program, the President, acting through the Corporation—

(A) is authorized to incur necessary expenses for the honorary recognition of the individual or program; and

(B) is not authorized to make a cash award to such individual or program.

(b) **INFORMATION.**—The President, acting through the Corporation, shall ensure that information concerning individuals and programs receiving awards under this section is widely disseminated.

SEC. 198C. [42 U.S.C. 12653c] MILITARY INSTALLATION CONVERSION DEMONSTRATION PROGRAMS.

(a) **PURPOSES.**—The purposes of this section are to—

(1) provide meaningful service opportunities for economically disadvantaged youth;

(2) fully utilize military installations affected by closures or realignments;

(3) encourage communities affected by such closures or realignments to convert the installations to community use; and

(4) foster a sense of community pride in the youth in the community.

(b) **DEFINITIONS.**—As used in this section:

(1) **AFFECTED MILITARY INSTALLATION.**—The term “affected military installation” means a military installation being closed or realigned under—

(A) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of division B of Public Law 101-510; 10 U.S.C. 2687 note); and

(B) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(2) COMMUNITY.—The term “community” includes a county.

(3) CONVERT TO COMMUNITY USE.—The term “convert to community use”, used with respect to an affected military installation, includes—

(A) conversion of the installation or a part of the installation to—

- (i) a park;
- (ii) a community center;
- (iii) a recreational facility; or
- (iv) a facility for a Head Start program under the Head Start Act (42 U.S.C. 9831 et seq.); and

(B) carrying out, at the installation, a construction or economic development project that is of substantial benefit, as determined by the Chief Executive Officer, to—

- (i) the community in which the installation is located; or
- (ii) a community located within such distance of the installation as the Chief Executive Officer may determine by regulation to be appropriate.

(4) DEMONSTRATION PROGRAM.—The term “demonstration program” means a program described in subsection (c).

(c) DEMONSTRATION PROGRAMS.—

(1) GRANTS.—The Corporation may make grants to communities and community-based agencies to pay for the Federal share of establishing and carrying out military installation conversion demonstration programs, to assist in converting to community use affected military installations located—

- (A) within the community; or
- (B) within such distance from the community as the Chief Executive Officer may by regulation determine to be appropriate.

(2) DURATION.—In carrying out such a demonstration program, the community or community-based agency may carry out—

- (A) a program of not less than 6 months in duration;
- or
- (B) a full-time summer program.

(d) USE OF FUNDS.—

(1) STIPEND.—A community or community-based agency that receives a grant under subsection (c) to establish and carry out a project through a demonstration program may use the funds made available through such grant to pay for a portion of a stipend for the participants in the project.

(2) LIMITATION ON AMOUNT OF STIPEND.—The amount of the stipend provided to a participant under paragraph (1) that may be paid using assistance provided under this section and using any other Federal funds shall not exceed the lesser of—

- (A) 85 percent of the total average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955); and

- (B) 85 percent of the stipend established by the demonstration program involved.
- (e) PARTICIPANTS.—
- (1) ELIGIBILITY.—A person shall be eligible to be selected as a participant in a project carried out through a demonstration program if the person is—
- (A) an economically disadvantaged individual; and
 - (B)(i) a person described in section 153(b);
 - (ii) a youth described in section 154(a); or
 - (iii) an individual described in section 144 of the Workforce Investment Act of 1998.
- (2) PARTICIPATION.—Persons desiring to participate in such a project shall enter into an agreement with the service sponsor of the project to participate—
- (A) on a full-time or a part-time basis; and
 - (B) for the duration referred to in subsection (f)(2)(C).
- (f) APPLICATION.—
- (1) IN GENERAL.—To be eligible to receive a grant under subsection (c), a community or community-based agency shall submit an application to the Chief Executive Officer at such time, in such manner, and containing such information as the Chief Executive Officer may require.
- (2) CONTENTS.—At a minimum, such application shall contain—
- (A) a description of the demonstration program proposed to be conducted by the applicant;
 - (B) a proposal for carrying out the program that describes the manner in which the applicant will—
 - (i) provide preservice and inservice training, for supervisors and participants, that will be conducted by qualified individuals or qualified organizations;
 - (ii) conduct an appropriate evaluation of the program; and
 - (iii) provide for appropriate community involvement in the program;
 - (C) information indicating the duration of the program; and
 - (D) an assurance that the applicant will comply with the nonduplication and nondisplacement provisions of section 177 and the grievance procedure requirements of section 176(f).
- (g) LIMITATION ON GRANT.—In making a grant under subsection (c) with respect to a demonstration program to assist in converting an affected military installation, the Corporation shall not make a grant for more than 25 percent of the total cost of the conversion.

SEC. 198D. [42 U.S.C. 12653d] SPECIAL DEMONSTRATION PROJECT.

(a) SPECIAL DEMONSTRATION PROJECT FOR THE YUKON-KUSKOKWIM DELTA OF ALASKA.—The President may award grants to, and enter into contracts with, organizations to carry out programs that address significant human needs in the Yukon-Kuskokwim delta region of Alaska.

(b) APPLICATION.—

(1) GENERAL REQUIREMENTS.—To be eligible to receive a grant or enter into a contract under subsection (a) with respect to a program, an organization shall submit an application to the President at such time, in such manner, and containing such information as the President may require.

(2) CONTENTS.—The application submitted by the organization shall, at a minimum—

(A) include information describing the manner in which the program will utilize VISTA volunteers, individuals who have served in the Peace Corps, and other qualified persons, in partnership with the local nonprofit organizations known as the Yukon-Kuskokwim Health Corporation and the Alaska Village Council Presidents;

(B) take into consideration—

(i) the primarily noncash economy of the region; and

(ii) the needs and desires of residents of the local communities in the region; and

(C) include specific strategies, developed in cooperation with the Yupi'k speaking population that resides in such communities, for comprehensive and intensive community development for communities in the Yukon-Kuskokwim delta region.

Subtitle I—American Conservation and Youth Service Corps

SEC. 199. [42 U.S.C. 12501 nt] SHORT TITLE.

This subtitle may be cited as the “American Conservation and Youth Service Corps Act of 1990”.

SEC. 199A. [42 U.S.C. 12655] GENERAL AUTHORITY.

The Corporation may make grants to States or local applicants and may transfer funds to the Secretary of Agriculture or to the Secretary of the Interior for the creation or expansion of full-time, part-time, year-round, or summer, youth corps programs. To the extent practicable, the Corporation shall apply the provisions of subtitle C in making grants under this section.

SEC. 199B. [42 U.S.C. 12655a] LIMITATION ON PURCHASE OF CAPITAL EQUIPMENT.

Not to exceed 10 percent of the amount of assistance made available to a program agency under this subtitle shall be used for the purchase of major capital equipment.

SEC. 199C. [42 U.S.C. 12655b] STATE APPLICATION.

(a) SUBMISSION.—To be eligible to receive a grant under this subtitle, a State or Indian tribe (or a local applicant if section 199A applies) shall prepare and submit to the Corporation, an application at such time, in such manner, and containing such information as the Corporation may reasonably require.

(b) GENERAL CONTENT.—An application submitted under subsection (a) shall describe—

(1) any youth corps program proposed to be conducted directly by such applicant with assistance provided under this subtitle; and

(2) any grant program proposed to be conducted by such State with assistance provided under this subtitle for the benefit of entities within such State.

SEC. 199D. [42 U.S.C. 12655c] FOCUS OF PROGRAMS.

(a) IN GENERAL.—Programs that receive assistance under this subtitle may carry out activities that—

(1) in the case of conservation corps programs, focus on—

(A) conservation, rehabilitation, and the improvement of wildlife habitat, rangelands, parks, and recreational areas;

(B) urban and rural revitalization, historical and cultural site preservation, and reforestation of both urban and rural areas;

(C) fish culture, wildlife habitat maintenance and improvement, and other fishery assistance;

(D) road and trail maintenance and improvement;

(E) erosion, flood, drought, and storm damage assistance and controls;

(F) stream, lake, waterfront harbor, and port improvement;

(G) wetlands protection and pollution control;

(H) insect, disease, rodent, and fire prevention and control;

(I) the improvement of abandoned railroad beds and rights-of-way;

(J) energy conservation projects, renewable resource enhancement, and recovery of biomass;

(K) reclamation and improvement of strip-mined land;

(L) forestry, nursery, and cultural operations; and

(M) making public facilities accessible to individuals with disabilities.

(2) in the case of youth service corps programs, include participant service in—

(A) State, local, and regional governmental agencies;

(B) nursing homes, hospices, senior centers, hospitals, local libraries, parks, recreational facilities, child and adult day care centers, programs serving individuals with disabilities, and schools;

(C) law enforcement agencies, and penal and probation systems;

(D) private nonprofit organizations that primarily focus on social service such as community action agencies;

(E) activities that focus on the rehabilitation or improvement of public facilities, neighborhood improvements, literacy training that benefits educationally disadvantaged individuals, weatherization of and basic repairs to low-income housing including housing occupied by older adults, energy conservation (including solar energy techniques), removal of architectural barriers to access by individuals with disabilities to public facilities, activities that focus on drug and alcohol abuse education, prevention and treatment, and conservation, maintenance, or restoration of natural resources on publicly held lands; and

(F) any other nonpartisan civic activities and services that the Corporation determines to be of a substantial social benefit in meeting unmet human, educational, or environmental needs (particularly needs related to poverty) or in the community where volunteer service is to be performed; or

(3) encompass the focuses and services described in both paragraphs (1) and (2).

(b) **LIMITATION ON SERVICE.**—No participant shall perform any specific activity for more than a 6-month period. No participant shall remain enrolled in programs assisted under this subtitle for more than 24 months.

SEC. 199E. [42 U.S.C. 12655d] RELATED PROGRAMS.

An activity administered under the authority of the Secretary of Health and Human Services, that is operated for the same purpose as a program eligible to be carried out under this subtitle, is encouraged to use services available under this subtitle.

SEC. 199F. [42 U.S.C. 12655e] PUBLIC LANDS OR INDIAN LANDS.

(a) **LIMITATION.**—To be eligible to receive assistance through a grant provided under this subtitle, a program shall carry out activities on public lands or Indian lands, or result in a public benefit.

(b) **REVIEW OF APPLICATIONS.**—In reviewing applications submitted under section 199C that propose programs or projects to be carried out on public lands or Indian lands, the Corporation shall consult with the Secretary of the Interior.

(c) **CONSISTENCY.**—A program carried out with assistance provided under this subtitle for conservation, rehabilitation, or improvement of any public lands or Indian lands shall be consistent with—

(1) the provisions of law and policies relating to the management and administration of such lands, and all other applicable provisions of law; and

(2) all management, operational, and other plans and documents that govern the administration of such lands.

(d) **PARTICIPATION BY OTHER CONSERVATION PROGRAMS.**—Any land or water conservation program (or any related program) administered in any State under the authority of any Federal program is encouraged to use services available under this part to carry out its program.

SEC. 199G. [42 U.S.C. 12655f] TRAINING AND EDUCATION SERVICES.

(a) **ASSESSMENT OF SKILLS.**—Each program agency shall assess the educational level of participants at the time of their entrance into the program, using any available records or simplified assessment means or methodology and shall, where appropriate, refer such participants for testing for specific learning disabilities.

(b) **ENHANCEMENT OF SKILLS.**—Each program agency shall, through the programs and activities administered under this subtitle, enhance the educational skills of participants.

(c) **PROVISION OF PRE-SERVICE AND IN-SERVICE TRAINING AND EDUCATION.**—

(1) **REQUIREMENT.**—Each program agency shall use not less than 10 percent of the assistance made available to such agency under this subtitle in each fiscal year to provide pre-service and in-service training and educational materials and

services for participants in such a program. Program participants shall be provided with information concerning the benefits to the community that result from the activities undertaken by such participants.

(2) AGREEMENTS FOR ACADEMIC STUDY.—A program agency may enter into arrangements with academic institutions or education providers, including—

- (A) local education agencies;
- (B) community colleges;
- (C) 4-year colleges;
- (D) area vocational-technical schools; and
- (E) community based organizations;

to evaluate the basic skills of participants and to make academic study available to participants to enable such participants to upgrade literacy skills, to obtain high school diplomas or the equivalent of such diplomas, to obtain college degrees, or to enhance employable skills.

(3) COUNSELING.—Career and educational guidance and counseling shall be provided to a participant during a period of in-service training as described in this subsection. Each graduating participant shall be provided with counseling with respect to additional study, job skills training or employment and shall be provided job placement assistance where appropriate.

(4) PRIORITY FOR PARTICIPANTS WITHOUT HIGH SCHOOL DIPLOMAS.—A program agency shall give priority to participants who have not obtained a high school diploma or the equivalent of such diploma, in providing services under this subsection.

(d) STANDARDS AND PROCEDURES.—

(1) CONSISTENCY WITH STATE AND LOCAL REQUIREMENTS.—Appropriate State and local officials shall certify that standards and procedures with respect to the awarding of academic credit and the certification of educational attainment in programs conducted under subsection (c) are consistent with the requirements of applicable State and local law and regulations.

(2) ACADEMIC STANDARDS.—The standards and procedures described in paragraph (1) shall provide that an individual serving in a program that receives assistance under this subtitle—

(A) who is not a high school graduate, participate in an educational curriculum so that such individual can earn a high school diploma or the equivalent of such diploma; and

(B) may arrange to receive academic credit in recognition of the education and skills obtained from service satisfactorily completed.

SEC. 199H. [42 U.S.C. 12655h] PREFERENCE FOR CERTAIN PROJECTS.

(a) IN GENERAL.—In the consideration of applications submitted under section 199C, the Corporation shall give preference to programs that—

- (1) will provide long-term benefits to the public;
- (2) will instill a work ethic and a sense of public service in the participants;

(3) will be labor intensive, and involve youth operating in crews;

(4) can be planned and initiated promptly; and

(5) will enhance skills development and educational level and opportunities for the participants.

(b) SPECIAL RULE.—In the consideration of applications under this subtitle the Corporation shall ensure the equitable treatment of both urban and rural areas.

SEC. 199I. [42 U.S.C. 12655i] AGE AND CITIZENSHIP CRITERIA FOR ENROLLMENT.

(a) AGE AND CITIZENSHIP.—Enrollment in programs that receive assistance under this subtitle shall be limited to individuals who, at the time of enrollment, are—

(1) not less than 16 years nor more than 25 years of age, except that summer programs may include individuals not less than 14 years nor more than 21 years of age at the time of the enrollment of such individuals; and

(2) citizens or nationals of the United States or lawful permanent resident aliens of the United States.

(b) PARTICIPATION OF DISADVANTAGED YOUTH.—Programs that receive assistance under this subtitle shall ensure that educationally and economically disadvantaged youth, including youth in foster care who are becoming too old for foster care, youth with disabilities, youth with limited English proficiency, youth with limited basic skills or learning disabilities and homeless youth, are offered opportunities to enroll.

(c) SPECIAL CORPS MEMBERS.—Notwithstanding subsection (a)(1), program agencies may enroll a limited number of special corps members over age 25 so that the corps may draw on their special skills to fulfill the purposes of this Act. Programs are encouraged to consider senior citizens as special corps members.

(d) JOINT PROJECTS WITH SENIOR CITIZENS ORGANIZATIONS.—Program agencies shall use not more than 2 percent of amounts received under this subtitle to conduct joint projects with senior citizens organizations to enable senior citizens to serve as mentors for youth participants.

(e) CONSTRUCTION.—Nothing in subsection (a) shall be construed to prohibit any program agency from limiting enrollment to any age subgroup within the range specified in subsection (a)(1).

SEC. 199J. [42 U.S.C. 12655j] USE OF VOLUNTEERS.

Program agencies may use volunteer services for purposes of assisting projects carried out under this subtitle and may expend funds made available for those purposes to the agency, including funds made available under this subtitle, to provide for services or costs incidental to the utilization of such volunteers, including transportation, supplies, lodging, recruiting, training, and supervision. The use of volunteer services under this section shall be subject to the condition that such use does not result in the displacement of any participant.

SEC. 199K. [42 U.S.C. 12655i] LIVING ALLOWANCE.

(a) FULL-TIME SERVICE.—

(1) LIVING ALLOWANCE REQUIRED.—Subject to paragraph (3), each participant in a full-time youth corps program that receives assistance under this subtitle shall receive a living al-

allowance in an amount equal to or greater than the average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955).

(2) **LIMITATION ON FEDERAL SHARE.**—The amount of the annual living allowance provided under paragraph (1) that may be paid using assistance provided under this subtitle, section 121, and any other Federal funds shall not exceed 85 percent of the total average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955).

(3) **MAXIMUM LIVING ALLOWANCE.**—The total amount of an annual living allowance that may be provided to a participant in a full-time youth corps program that receives assistance under this subtitle shall not exceed 200 percent of the average annual subsistence allowance provided to VISTA volunteers under section 105 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4955).

(4) **WAIVER OR REDUCTION OF LIVING ALLOWANCE.**—The Corporation may waive or reduce the requirement of paragraph (1) with respect to such national service program if such program demonstrates that—

(A) such requirement is inconsistent with the objectives of the program; and

(B) the amount of the living allowance that will be provided to each full-time participant is sufficient to meet the necessary costs of living (including food, housing, and transportation) in the area in which the program is located.

(5) **EXEMPTION.**—The requirement of paragraph (1) shall not apply to any program that was in existence on the date of the enactment of the National and Community Service Trust Act of 1993.

(b) **REDUCTION IN EXISTING PROGRAM BENEFITS.**—

(1) **IN GENERAL.**—Nothing in this section shall be construed to require a program in existence on the date of enactment of this Act to decrease any stipends, salaries, or living allowances provided to participants under such program so long as the amount of any such stipends, salaries, or living allowances that is in excess of the levels provided for in this section are paid from non-Federal sources.

(2) **FAIR LABOR STANDARDS ACT OF 1938.**—For purposes of the Fair Labor Standards Act of 1938, residential youth corps programs under this subtitle will be considered an organized camp.

(c) **HEALTH INSURANCE.**—In addition to the living allowance provided under subsection (a), program agencies are encouraged to provide health insurance to each participant in a full-time youth corps program who does not otherwise have access to health insurance.

(d) **FACILITIES, SERVICES, AND SUPPLIES.**—

(1) **IN GENERAL.**—The program agency may deduct, from amounts provided under subsection (a) to a participant, a reasonable portion of the costs of the rates for any room and board that is provided for such participant at a residential facility.

Such deducted funds shall be deposited into rollover accounts that shall be used solely to defray the costs of room and board for participants.

(2) EVALUATION.—The program agency shall establish the amount of the deductions and rates under paragraph (1) after evaluating the costs of providing such room and board to the participant.

(3) DUTIES OF PROGRAM AGENCY.—A program agency may provide facilities, quarters, and board and shall provide limited and emergency medical care, transportation from administrative facilities to work sites, accommodations for individuals with disabilities, and other appropriate services, supplies, and equipment to each participant.

(4) OTHER FEDERAL AGENCIES.—

(A) IN GENERAL.—The Corporation may provide services, facilities, supplies, and equipment, including any surplus food and equipment available from other Federal programs, to any program agency carrying out projects under this subtitle.

(B) SECRETARY OF DEFENSE.—Whenever possible, the Corporation shall make arrangements with the Secretary of Defense to have logistical support provided by a military installation near the work site, including the provision of temporary tent centers where needed, and other supplies and equipment.

(5) HEALTH AND SAFETY STANDARDS.—The Corporation and program agencies shall establish standards and enforcement procedures concerning the health and safety of participants for all projects, consistent with Federal, State, and local health and safety standards.

SEC. 199L. [42 U.S.C. 12655m] JOINT PROGRAMS.

(a) DEVELOPMENT.—The Corporation may develop, in cooperation with the heads of other Federal agencies, regulations designed to permit, where appropriate, joint programs in which activities supported with assistance made available under this subtitle are coordinated with activities supported with assistance made available under programs administered by the heads of such agencies (including title I of the Workforce Investment Act of 1998).

(b) STANDARDS.—Regulations promulgated under subsection (a) shall establish standards for the approval of joint programs that meet both the purposes of this title and the purposes of such statutes under which assistance is made available to support such projects.

(c) OPERATION OF MANAGEMENT AGREEMENTS.—Program agencies may enter into contracts and other appropriate arrangements with local government agencies and nonprofit organizations for the operation or management of any projects or facilities under the program.

(d) COORDINATION.—The Corporation and program agencies carrying out programs under this subtitle shall coordinate the programs with related Federal, State, local, and private activities.

SEC. 199M. [42 U.S.C. 12655n] FEDERAL AND STATE EMPLOYEE STATUS.

(a) IN GENERAL.—Participants and crew leaders shall be responsible to, or be the responsibility of, the program agency admin-

istering the program on which such participants, crew leaders, and volunteers work.

(b) NON-FEDERAL EMPLOYEES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, a participant or crew leader in a program that receives assistance under this subtitle shall not be considered a Federal employee and shall not be subject to the provisions of law relating to Federal employment.

(2) WORK-RELATED INJURY.—For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to the compensation of Federal employees for work injuries, a participant or crew leader serving in a program that receives assistance under this subtitle shall be considered an employee of the United States within the meaning of the term “employee” as defined in section 8101 of title 5, United States Code, and the provision of that subchapter shall apply, except—

(A) the term “performance of duty”, as used in such subchapter, shall not include an act of a participant or crew leader while absent from the assigned post of duty of such participant or crew leader, except while participating in an activity authorized by or under the direction and supervision of a program agency (including an activity while on pass or during travel to or from such post of duty); and

(B) compensation for disability shall not begin to accrue until the day following the date that the employment of the injured participant or crew leader is terminated.

(3) TORT CLAIMS PROCEDURE.—For purposes of chapter 171 of title 28, United States Code, relating to tort claims procedure, a participant or crew leaders assigned to a youth corps program for which a grant has been made to the Secretary of Agriculture, Secretary of the Interior, or the Director of ACTION, shall be considered an employee of the United States within the meaning of the term “employee of the government” as defined in section 2671 of such title.

(4) ALLOWANCE FOR QUARTERS.—For purposes of section 5911 of title 5, United States Code, relating to allowances for quarters, a participant or crew leader shall be considered an employee of the United States within the meaning of the term “employee” as defined in paragraph (3) of subsection (a) of such section.

(c) AVAILABILITY OF APPROPRIATION.—Contract authority under this subtitle shall be subject to the availability of appropriations. Assistance made available under this subtitle shall only be used for activities that are in addition to those which would otherwise be carried out in the area in the absence of such funds.

TITLE II—MODIFICATIONS OF EXISTING PROGRAMS

Subtitle B—Publication

SEC. 201. INFORMATION FOR STUDENTS. [Omitted]

* * * * *

SEC. 202. EXIT COUNSELING FOR BORROWERS. [Omitted]

* * * * *

SEC. 203. DEPARTMENT INFORMATION ON DEFERMENTS AND CANCELLATIONS. [Omitted]

* * * * *

SEC. 204. DATA ON DEFERMENTS AND CANCELLATIONS. [Omitted]

* * * * *

Subtitle B—Youthbuild Projects**SEC. 211. YOUTHBUILD PROJECTS.**

[See title VII of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5091 et seq.)]

* * * * *

**TITLE III—POINTS OF LIGHT
FOUNDATION****SEC. 301. [42 U.S.C. 12501 note] SHORT TITLE.**

This title may be cited as the “The Points of Light Foundation Act”.

SEC. 302. [42 U.S.C. 12661] FINDINGS AND PURPOSES.

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

(1) community service and service to others is an integral part of American tradition;

(2) existing volunteers and volunteer programs should be praised for their efforts in helping and serving others;

(3) the definition of a successful life includes service to others;

(4) individuals should be encouraged to volunteer their time and energies in community service efforts;

(5) if asked to volunteer or participate in community service, most Americans will do so;

(6) institutions should be encouraged to volunteer their resources and energies and should encourage volunteer and community service among their members, employees, affiliates; and

(7) volunteer and community service programs are intended to complement and not replace governmental responsibilities.

(b) **PURPOSE.**—It is the purpose of this title—

(1) to encourage every American and every American institution to help solve our most critical social problems by volunteering their time, energies and services through community service projects and initiatives;

(2) to identify successful and promising community service projects and initiatives, and to disseminate information concerning such projects and initiatives to other communities in order to promote their adoption nationwide; and

(3) to discover and encourage new leaders and develop individuals and institutions that serve as strong examples of a commitment to serving others and to convince all Americans that a successful life includes serving others.

SEC. 303. [42 U.S.C. 12662] AUTHORITY.

(a) **IN GENERAL.**—The President, acting through the Corporation, is authorized to designate a private, nonprofit organization (hereinafter referred to in this title as the Foundation) to receive funds pursuant to section 501(b) in furtherance of activities under section 302, upon the determination of the Corporation that such organization is capable of carrying out the undertakings described in section 302. Any such designation by the Corporation shall be revocable.

(b) **CONSTRUCTION.**—Nothing in this Act shall be construed either—

(1) to cause the Foundation to be deemed an agency, establishment, or instrumentality of the United States Government; or

(2) to cause the directors, officers or employees of the Foundation to be deemed officers or employees of the United States.

SEC. 304. [42 U.S.C. 12663] GRANTS TO THE FOUNDATION.

(a) **IN GENERAL.**—Funds made available pursuant to sections 303 and 501(b) shall be granted to the Foundation by a department or agency in the executive branch of the United States Government designated by the President—

(1) to assist the Foundation in carrying out the undertakings described in section 302; and

(2) for the administrative expenses of the Foundation.

(b) **INTEREST EARNED ON ACCOUNTS.**—Notwithstanding any other provision of law, the Foundation may hold funds granted to it pursuant to this title in interest-bearing accounts, prior to the disbursement of such funds for purposes specified in subsection (a), and may retain for such purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress.

SEC. 305. [42 U.S.C. 12664] ELIGIBILITY OF THE FOUNDATION FOR GRANTS.

(a) **COMPLIANCE.**—Grants may be made to the Foundation pursuant to this title only if the Foundation agrees to comply with the requirements of this title. If the Foundation fails to comply with the requirements of this title, additional funds shall not be released until the Foundation brings itself into compliance with such requirements.

(b) **ACTIVITIES.**—The Foundation may use funds provided under this title only for activities and programs consistent with the purposes described in sections 302 and 304.

(c) **LIMITATION.**—The Foundation shall not issue any shares of stock or declare or pay any dividends.

(d) **COMPENSATION.**—No part of the funds available to the Foundation shall inure to the benefit of any board member, officer, or employee of the Foundation, except as salary or reasonable compensation for services or expenses. Compensation for board mem-

bers shall be limited to reimbursement for reasonable costs of travel and expenses.

(e) **CONFLICTS OF INTEREST.**—No director, officer, or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation that affects his or her financial interests or the financial interests of any corporation, partnership, entity, or organization in which he or she has a direct or indirect financial interest.

(f) **POLITICAL ACTIVITY.**—The Foundation shall not engage in lobbying or propaganda for the purpose of influencing legislation, and shall not participate or intervene in any political campaign on behalf of any candidate for public office.

(g) **PRIVATE SECTOR CONTRIBUTIONS.**—During the second and third fiscal years in which funds are provided to the Foundation under this title, the Foundation shall raise from private sector donations an amount equal to not less than 25 percent of any funds provided to the Foundation under this title in such fiscal year. Funds shall be released to the Foundation during such fiscal year only to the extent that the matching requirement of the subsection has been met.

(h) **AUDIT OF ACCOUNTS.**—The accounts of the Foundation shall be audited annually by independent certified public accountants or independent licensed public accountants certified or licensed by a regulatory authority of a State or other political subdivision of the United States in accordance with generally accepted auditing standards. The reports, of each such independent audit shall be included in the annual report required by subsection (l).

(i) **AUDITS BY AGENCIES.**—In fiscal years in which the Foundation is receiving grants under this title, the accounts of the Foundation may be audited at any time by any agency designated by the President. The Foundation shall keep such records as will facilitate effective audits.

(j) **CONGRESSIONAL OVERSIGHT.**—In fiscal years in which the Foundation is receiving grants under this title, the Foundation shall be subject to appropriate oversight procedures of Congress.

(k) **DUTIES.**—The Foundation shall ensure—

(1) that recipients of financial assistance provided by the Foundation under this title, shall keep separate accounts with respect to such assistance and such records as may be reasonably necessary to disclose fully—

(A) the amount and the disposition by such recipient of the assistance received from the Foundation;

(B) the total cost of the project or undertaking in connection with which such assistance is given or used;

(C) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(D) such other records as will facilitate effective audits; and

(2) that the Foundation, or any of its duly authorized representatives including any agency designated by the President pursuant to subsection (i) shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipient that are pertinent to assistance provided from funds granted pursuant to this title.

(1) ANNUAL REPORTS.—The Foundation shall prepare and submit to the President and to the appropriate Committees of Congress an annual report, that shall include a comprehensive and detailed description of the Foundation's operations, activities, financial condition, and accomplishments for the fiscal year preceding the year in which the report is submitted. Such report shall be submitted not later than 3 months after the conclusion of any fiscal year in which the Foundation receives grants under this title.

[TITLE IV—REPEALED BY P.L. 104-210]

[Section 402 transferred to the Child Nutrition Act of 1966 and redesignated as section 22 by P.L. 104-210; 110 Stat. 3012.]

**TITLE V—AUTHORIZATION OF
APPROPRIATIONS**

SEC. 501. [42 U.S.C. 12681] AUTHORIZATION OF APPROPRIATIONS.

(a) TITLE I.—

(1) SUBTITLE B.—

(A) IN GENERAL.—There are authorized to be appropriated to provide financial assistance under subtitle B of title I, \$45,000,000 for fiscal year 1994 and such sums as may be necessary for each of the fiscal years 1995 through 1996.

(B) PROGRAMS.—Of the amount appropriated under subparagraph (A) for a fiscal year—

(i) not more than 63.75 percent shall be available to provide financial assistance under subpart A of part I of subtitle B of title I;

(ii) not more than 11.25 percent shall be available to provide financial assistance under subpart B of part I of such subtitle; and

(iii) not more than 25 percent shall be available to provide financial assistance under part II of such subtitle.

(2) SUBTITLES C, D, AND H.—

(A) IN GENERAL.—There are authorized to be appropriated to provide financial assistance under subtitles C and H of title I, to provide national service educational awards under subtitle D of title I, and to carry out such audits and evaluations as the Chief Executive Officer or the Inspector General of the Corporation may determine to be necessary, \$300,000,000 for fiscal year 1994, \$500,000,000 for fiscal year 1995, and \$700,000,000 for fiscal year 1996.

(B) PROGRAMS.—Of the amount appropriated under subparagraph (A) for a fiscal year, up to 15 percent shall be made available to provide financial assistance under section 125, under subsections (b) and (c) of section 126, and under subtitle H of title I.

(3) SUBTITLE E.—There are authorized to be appropriated to provide financial assistance under subtitle E of title I, such

sums as may be necessary for each of the fiscal years 1995 through 1996.

(4) ADMINISTRATION.—

(A) IN GENERAL.—There are authorized to be appropriated for the administration of this Act \$40,000,000 for fiscal year 1994, \$60,000,000 for fiscal year 1995, and \$70,000,000 for fiscal year 1996.

(B) CORPORATION.—Of the amounts appropriated under subparagraph (A) for a fiscal year—

(i) up to 60 percent shall be made available to the Corporation for the administration of this Act; and

(ii) the remainder shall be available to provide financial assistance under section 126(a).

(b) TITLE III.—There are authorized to be appropriated to carry out title III \$5,000,000 for each of the fiscal years 1994 through 1996.

(c) AVAILABILITY OF APPROPRIATIONS.—Funds appropriated under this section shall remain available until expended.

(d) SPECIFICATION OF BUDGET FUNCTION.—The authorizations of appropriations contained in this section shall be considered to be a component of budget function 500 as used by the Office of Management and Budget to cover education, training, employment, and social services, and, as such, shall be considered to be related to the programs of the Departments of Labor, Health and Human Services, and Education for budgetary purposes.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. AMTRAK WASTE DISPOSAL.

(a) AMENDMENT TO RAIL PASSENGER SERVICE ACT.—Section 306(i) of the Rail Passenger Service Act is amended—

(1) by inserting “and other Federal, State and local laws” after “Public Health Service Act (42 U.S.C. 264)”; and

(2) by adding at the end thereof the following new sentences: “New intercity rail passenger cars manufactured on or after October 15, 1990, shall be built to provide for the discharge of human wastes only at servicing facilities. The Corporation shall retrofit those of its intercity rail passenger cars that were manufactured after May 1, 1971 and before October 15, 1990, with human waste disposal systems that provide for the discharge of human wastes only at servicing facilities. Subject to the appropriation of funds, (1) such retrofit program shall be completed within not later than October 15, 1996, and (2) all cars that do not provide for the discharge of human wastes only at servicing facilities shall be removed from service after such date. The United States district courts shall have original jurisdiction over any civil actions brought by the Corporation to enforce the exemption conferred hereunder and may grant equitable or declaratory relief as requested by the Corporation.”

(b) PLAN.—Not later than 1 year after the date of enactment of this Act, the National Railroad Passenger Corporation shall prepare and submit to the appropriate committees of Congress a plan

that sets forth a schedule and projected cost for the completion of the retrofit program referred to in the amendment made by subsection (a) within the time limit set forth under such amendment.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if enacted on February 5, 1976.

(d) ENVIRONMENTALLY SENSITIVE AREAS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation, after appropriate notice and comment, and in consultation with the National Railroad Passenger Corporation, the Administrator of the Environmental Protection Agency, the Surgeon General, and State and local officials, shall promulgate such regulations as may be necessary to mitigate the impact of the discharge of human waste from railroad passenger cars on areas that may be considered environmentally sensitive.

(e) AVAILABILITY OF INFORMATION CONCERNING DISPOSAL OF WASTE.—Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall promulgate regulations directing the National Railroad Passenger Corporation to, where appropriate, publish printed information, and make public address announcements, explaining its existing disposal technology and the retrofit and new equipment program, and encouraging passengers using existing equipment not to dispose of wastes in stations, railroad yards, or while the train is moving through environmentally sensitive areas.

SEC. 602. [22 U.S.C. 2452a] EXCHANGE PROGRAM WITH COUNTRIES IN TRANSITION FROM TOTALITARIANISM TO DEMOCRACY.

(a) AUTHORIZATION OF ACTIVITIES; GRANTS OR CONTRACTS FOR EXCHANGES WITH FOREIGN COUNTRIES.—Pursuant to the Mutual Educational and Cultural Exchange Act of 1961 and using the authorities contained therein, the President is authorized, when the President considers that it would strengthen international cooperative relations, to provide, by grant, contract, or otherwise, for exchanges with countries that are in transition from totalitarianism to democracy, which include, but are not limited to Poland, Hungary, Czechoslovakia, Bulgaria, and Romania—

(1) by financing studies, research, instruction, and related activities—

(A) of or for American citizens and nationals in foreign countries; and

(B) of or for citizens and nationals of foreign countries in American private businesses, trade associations, unions, chambers of commerce, and local, State, and Federal Government agencies, located in or outside the United States; and

(2) by financing visits and interchanges between the United States and countries in transition from totalitarianism to democracy.

The program under this section shall be coordinated by the United States Information Agency.

(b) TRANSFER OF FUNDS.—The President is authorized to transfer to the appropriations account of the United States Information Agency such sums as the President shall determine to be necessary out of the travel accounts of the departments and agencies of the United States, except for the Department of State and the United States Information Agency, as the President shall designate. Such

transfers shall be subject to the approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. In addition, the President is authorized to accept such gifts or cost-sharing arrangements as may be proffered to sustain the program under this section.

DOMESTIC VOLUNTEER SERVICE ACT OF 1973¹

AN ACT To provide for the operation of programs by the ACTION Agency, to establish certain new such programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Domestic Volunteer Service Act of 1973”.

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

Sec. 1. Short title; table of contents.

Sec. 2. Volunteerism policy.

TITLE I—NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS

PART A—VOLUNTEERS IN SERVICE TO AMERICA

Sec. 101. Statement of purpose.

Sec. 102. Authority to operate VISTA program.

Sec. 103. Selection and assignment of volunteers.

Sec. 104. Terms and periods of service.

Sec. 105. Support service.

Sec. 106. Participation of beneficiaries.

Sec. 107. Participation of younger and older persons.

Sec. 108. Limitation.

Sec. 109. VISTA Literacy Corps.

Sec. 110. Applications for assistance.

PART B—UNIVERSITY YEAR FOR VISTA

Sec. 111. Statement of purpose.

Sec. 112. Authority to operate University Year for VISTA program.

Sec. 113. Special conditions.

PART C—SPECIAL VOLUNTEER PROGRAMS

Sec. 121. Statement of purpose.

Sec. 122. Authority to establish and operate special volunteer and demonstration programs.

Sec. 123. Technical and financial assistance.

Sec. 124. Literacy challenge grants.

TITLE II—NATIONAL SENIOR VOLUNTEER CORPS

Sec. 200. Statement of purposes.

PART A—RETIRED AND SENIOR VOLUNTEER PROGRAM

Sec. 201. Grants and contracts for volunteer service projects.

PART B—FOSTER GRANDPARENT PROGRAM

Sec. 211. Grants and contracts for volunteer service projects.

PART C—SENIOR COMPANION PROGRAM

Sec. 213. Grants and contracts for volunteer service projects.

PART D—GENERAL PROVISIONS

Sec. 221. Promotion of National Senior Volunteer Corps.

¹Public Law 93–113.

- Sec. 222. Payments.
- Sec. 223. Minority group participation.
- Sec. 224. Use of locally generated contributions in National Senior Volunteer Corps.
- Sec. 225. Programs of national significance.
- Sec. 226. Adjustments to Federal financial assistance.
- Sec. 227. Multiyear grants or contracts.

PART E—DEMONSTRATION PROGRAMS

- Sec. 231. Authority of Director.

TITLE IV—ADMINISTRATION AND COORDINATION

- Sec. 403. Political activities.
- Sec. 404. Special limitations.
- Sec. 406. Labor standards.
- Sec. 408. Joint funding.
- Sec. 409. Prohibition of Federal control.
- Sec. 410. Coordination with other programs.
- Sec. 411. Prohibition.
- Sec. 412. Notice and hearing procedures for suspension and termination of financial assistance.
- Sec. 414. Distribution of benefits between rural and urban areas.
- Sec. 415. Application of Federal law.
- Sec. 416. Evaluation.
- Sec. 417. Nondiscrimination provisions.
- Sec. 418. Eligibility for other benefits.
- Sec. 419. Legal expenses.
- Sec. 421. Definitions.
- Sec. 422. Audit.
- Sec. 423. Reduction of paperwork.
- Sec. 424. Review of project renewals.
- Sec. 425. Protection against improper use.
- Sec. 426. Center for Research and Training.

TITLE V—AUTHORIZATION OF APPROPRIATIONS

- Sec. 501. National volunteer antipoverty programs.
- Sec. 502. National Senior Volunteer Corps.
- Sec. 504. Administration and coordination.
- Sec. 505. Availability of appropriations.

TITLE VI—AMENDMENTS TO OTHER LAWS AND REPEALERS

- Sec. 601. Supersedence of Reorganization Plan No. 1 of July 1, 1971.
- Sec. 602. Creditable service for civil service retirement.
- Sec. 603. Repeal of title VIII of the Economic Opportunity Act.
- Sec. 604. Repeal of title VI of the Older Americans Act.

VOLUNTEERISM POLICY

SEC. 2. (a) Because of the long-standing importance of volunteerism throughout American history, it is the policy of the Congress to foster the tradition of volunteerism through greater involvement on the part of both young and older citizens.

(b) The purpose of this Act is to foster and expand voluntary citizen service in communities throughout the Nation in activities designed to help the poor, the disadvantaged, the vulnerable, and the elderly. In carrying out this purpose, the Corporation for National and Community Service shall utilize to the fullest extent the programs authorized under this Act, coordinate with other Federal, State, and local agencies and utilize the energy, innovative spirit, experience, and skills of all Americans.

(42 U.S.C. 4950)

TITLE I—NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS

PART A—VOLUNTEERS IN SERVICE TO AMERICA

STATEMENT OF PURPOSE

SEC. 101. This part provides for the Volunteers in Service to America (VISTA) program of full-time volunteer service, together with appropriate powers and responsibilities designed to assist in the development and coordination of such program. The purpose of this part is to strengthen and supplement efforts to eliminate and alleviate poverty and poverty-related problems in the United States by encouraging and enabling persons from all walks of life, all geographical areas, and all age groups, including low-income individuals, elderly and retired Americans, to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by persons afflicted with such problems. In addition, the objectives of this part are to generate the commitment of private sector resources, to encourage volunteer service at the local level, and to strengthen local agencies and organizations to carry out the purpose of this part.

(42 U.S.C. 4951)

AUTHORITY TO OPERATE VISTA PROGRAM

SEC. 102. This part shall be administered by one of the Assistant Directors appointed pursuant to section 194(d)(1)(A) of the National and Community Service Act of 1990. Such Director may recruit, select, and train persons to serve in full-time volunteer programs consistent with the provisions and to carry out the purpose of this part.

(42 U.S.C. 4952)

SELECTION AND ASSIGNMENT OF VOLUNTEERS

SEC. 103. (a) The Director, on the receipt of applications by public or nonprofit private organizations to receive volunteers under this part, may assign volunteers selected under subsection (b) to work in appropriate projects and programs sponsored by such organizations, including work—

(1) in meeting the health, education, welfare, or related needs of Indians living on reservations or Federal trust lands, of migratory and seasonal farmworkers and their families, and of residents of the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, or the Virgin Islands;

(2) in the care and rehabilitation of mentally ill, developmentally disabled, and other handicapped individuals, especially those with severe handicaps;

(3) in addressing the problems of the homeless, the jobless, the hungry, and low-income youths;

(4) in addressing the special needs connected with alcohol and drug abuse prevention, education, and related activities, consistent with the purpose of this part;

(5) in addressing significant health care problems, including chronic and life-threatening illnesses and health care for

homeless individuals (especially homeless children) through prevention, treatment, and community-based care activities;

(6) in connection with programs or activities authorized, supported, or of a character eligible for assistance under this Act or the Community Service Block Grant Act, titles VIII and X of the Economic Opportunity Act of 1964, the Headstart act, the Community Economic Development Act of 1981, or other similar Acts, in furtherance of the purpose of this title; and

(7) in strengthening, supplementing, and expanding efforts to address the problem of illiteracy throughout the United States.

(b)(1) The Director shall establish recruitment and placement procedures that offer opportunities for both local and national placement of volunteers for service under this part.

(2)(A) The Director shall establish and maintain within the national headquarters of the Corporation (or any successor entity of such agency) a volunteer placement office which shall be responsible for all functions related to the recruitment and placement of volunteers under this part. Such functions and activities shall be carried out in coordination or in conjunction with recruitment and placement activities carried out under the National and Community Service Trust Act of 1993. Upon the transfer of the functions of the ACTION Agency to the Corporation for National and Community Service, the office established under this subparagraph shall be merged with the recruitment office of such Corporation. At no time after such transfer of functions shall more than one office responsible primarily for recruitment exist within the Corporation.

(B) Such volunteer placement office shall develop, operate, and maintain a current and comprehensive central information system that shall, on request, promptly provide information—

(i) to individuals, with respect to specific opportunities for service as a volunteer with approved projects or programs to which no volunteer has been assigned; and

(ii) to approved projects or programs, with respect to the availability of individuals whose applications for service as a volunteer have been approved and who are awaiting an assignment with a specific project or program.

(C) The Director shall assign or hire as necessary, such additional national, regional, and State personnel to carry out the functions described in this subsection and subsection (c) as may be necessary to ensure that such functions are carried out in a timely and effective manner. The Director shall give priority in the hiring of such additional personnel to individuals who have formerly served as volunteers under this part and to individuals who have specialized experience in the recruitment of volunteers.

(3) Volunteers shall be selected from among qualified individuals submitting an application for such service at such time, in such form, and containing such information as may be necessary to evaluate the suitability of each individual for such service and to determine, in accordance with paragraph (7), the most appropriate assignment for each such volunteer. The Director shall approve the application of each individual who applies in conformance with this subsection and who, on the basis of the information provided in the application, is determined by the Director to be qualified to serve as a volunteer under this part.

(4) The Director shall ensure that applications for service as a volunteer under this part are available to the public on request to the Corporation (including any State or regional offices of the Agency) and that an individual making such request is informed of the manner in which such application is required to be submitted. A completed application may be submitted by any interested individual to, and shall be accepted by, any office of the Corporation.

(5)(A) The Director shall provide for the assignment of each applicant approved as a volunteer under this part to a project or program that is, to the maximum extent practicable, consistent with the abilities, experiences, and preferences of such applicant that are set forth in the application described in paragraph (4) and the needs and preferences of projects or programs approved for the assignment of such volunteers.

(B) In carrying out subparagraph (A), the Director shall utilize the information system established under paragraph (2)(B).

(C) A sponsoring organization of VISTA may recruit volunteers for service under this part. The Director shall give a locally recruited volunteer priority for placement in the sponsoring organization of VISTA that recruited such volunteer.

(D) A volunteer under this part shall not be assigned to any project or program without the express approval and consent of such project or program.

(E) If an applicant under this part who is recruited locally becomes unavailable for service prior to the commencement of service, the recipient of the project grant or contract that was designated to receive the services of such applicant may replace such applicant with another qualified applicant approved by the Director.

(F) If feasible and appropriate, low-income community volunteers shall be given the option of serving in the home communities of such volunteers in teams with nationally recruited specialist volunteers. The Director shall attempt to assign such volunteers to serve in the home or nearby communities of such volunteers and shall make national efforts to attract other individuals to serve in the VISTA program. The Director shall also, in the assignment of volunteers under this subparagraph, recognize that community-identified needs that cannot be met in the local area and the individual desires of VISTA volunteers in regard to the service in various geographical areas of the United States should be taken into consideration.

(c)(1) The Director, in conjunction with the personnel described in subsection (b)(2)(C), shall engage in public awareness and recruitment activities. Such activities may include—

(A) public service announcements through radio, television, and the print media;

(B) advertising through the print media, direct mail, and other means;

(C) disseminating information about opportunities for service as a volunteer under this part to relevant entities including institutions of higher education and other educational institutions (including libraries), professional associations, community-based agencies, youth service and volunteer organizations, business organizations, labor unions, senior citizens organiza-

tions, and other institutions and organizations from or through which potential volunteers may be recruited;

(D) disseminating such information through presentations made personally by employees of the Corporation or other designees of the Director, to students and faculty at institutions of higher education and to other entities described in subparagraph (C), including presentations made at the facilities, conventions, or other meetings of such entities;

(E) publicizing the student loan deferment and forgiveness opportunities available to VISTA volunteers under parts B and E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) and including such information in all applications and recruitment materials;

(F) publicizing national service educational awards available under the National and Community Service Trust Act of 1993;

(G) providing, on request, technical assistance with the recruitment of volunteers under this part to programs and projects receiving assistance under this part; and

(H) maintaining and publicizing a national toll-free telephone number through which individuals may obtain information about opportunities for service as a volunteer under this part and request and receive an application for such service.

(2) In designing and implementing the activities authorized under this section, the Director shall seek to involve individuals who have formerly served as volunteers under this part to assist in the dissemination of information concerning the program established under this part. The Director may reimburse the costs incurred by such former volunteers for such participation, including expenses incurred for travel.

(3) The Director shall consult with the Director of the Peace Corps to coordinate the recruitment and public awareness activities carried out under this subsection with those of the Peace Corps and to develop joint procedures and activities for the recruitment of volunteers to serve under this part.

(4) Beginning in fiscal year 1991 and for each fiscal year thereafter, for the purpose of carrying out this subsection, the Director shall obligate not less than 1.5 percent of the amounts appropriated for each fiscal year under section 501(a).

(d) The Director shall provide each low-income community volunteer with an individual plan for job advancement or for transition to a situation leading to gainful employment. Whenever feasible, such efforts shall be coordinated with an appropriate private industry council established under the Job Training Partnership Act or local workforce investment board established under section 117 of the Workforce Investment Act of 1998.¹

(e) The Director may provide or arrange for educational and vocational counseling of volunteers and recent former volunteers under this part to (1) encourage them to use, in the national interest, the skills and experience which they have derived from their training and service, particularly working in combating poverty as members of the helping professions, and (2) promote the develop-

¹ Effective July 1, 2000, Public Law 105-277 attempts to amend the second sentence of subsection (d) to read as follows: "private industry council established under the Job Training Partnership Act or". The amendment probably should just strike the quoted matter.

ment of appropriate opportunities for the use of such skills and experience, and the placement therein of such volunteers.

(f) Except as provided in subsection (e), the assignment of volunteers under this section shall be on such terms and conditions (including restrictions on political activities that appropriately recognize the special status of volunteers living among the persons or groups served by programs to which they have been assigned) as the Director may determine, including work assignments in their own or nearby communities.

(g) Volunteers under this part shall not be assigned to work in a program or project in any community unless the application for such program or project contains evidence of local support and has been submitted to the Governor or other chief executive officer of the State concerned, and such Governor or other chief executive officer has not, within 45 days of the date of such submission, notified the Director in writing, supported by a statement of reasons, that such Governor or other chief executive officer disapproves such program or project. In the event of a timely request in writing, supported by a statement of reasons, by the Governor or other chief executive officer of the State concerned, the Director shall terminate a program or project or the assignment of a volunteer to a program or project not later than 30 days after the date such request is received by the Director, or at such later date as is agreed upon by the Director and such Governor or other chief executive officer.

(h) The Director is encouraged to enter into agreements with other Federal agencies to use VISTA volunteers in furtherance of program objectives that are consistent with the purposes described in section 101.

(42 U.S.C. 4953)

TERMS AND PERIODS OF SERVICE

SEC. 104. (a) Volunteers serving under this part shall be required to make a full-time personal commitment to combating poverty and poverty-related problems. To the maximum extent practicable, the requirement for full-time commitment shall include a commitment to live among and at the economic level of the people served, and to remain available for service without regard to regular working hours, at all times during their periods of service, except for authorized periods of leave.

(b)(1) Volunteers serving under this part may be enrolled initially for periods of service of not less than 1 year, nor more than 2 years, except as provided in paragraph (2) or subsection (e).

(2) Volunteers serving under this part may be enrolled for periods of service of less than 1 year if the Director determines, on an individual basis, that a period of service of less than 1 year is necessary to meet a critical scarce skill need.

(3) Volunteers serving under this part may be reenrolled for periods of service in a manner to be determined by the Director. No volunteer shall serve for more than a total of 5 years under this part.

(c) Volunteers under this part shall, upon enrollment, take the oath of office as prescribed for persons appointed to any office of honor or profit by section 3331 of title 5, United States Code, and

shall swear (or affirm) that the volunteer does not advocate the overthrow of the constitutional form of government of the United States and that the volunteer is not a member of an organization that advocates the overthrow of the constitutional form of government of the United States, knowing that such organization so advocates, except that persons legally residing within a State but who are not citizens or nationals of the United States, may serve under this part without taking or subscribing to such oath, if the Director determines that the service of such persons will further the interests of the United States. Such persons shall take such alternative oath or affirmation as the Director shall deem appropriate.

(d) The Director shall establish a procedure, including notice and opportunity to be heard, for volunteers under this part to present and obtain resolution of grievances and to present their views in connection with the terms and conditions of their service. The Director shall promptly provide to each volunteer in service on the date of enactment of this Act, and to each such volunteer beginning service thereafter, information regarding such procedure and the terms and conditions of their service.

(e)(1) Notwithstanding any other provision of this part, the Director may enroll full-time VISTA summer associates in a program for the summer months only, under such terms and conditions as the Director shall determine to be appropriate. Such individuals shall be assigned to projects that meet the criteria set forth in section 103(a).

(2) In preparing reports relating to programs under this Act, the Director shall report on participants, costs, and accomplishments under the summer program separately.

(3) The limitation on funds appropriated for grants and contracts, as contained in section 108, shall not apply to the summer program.

(42 U.S.C. 4954)

SUPPORT SERVICE

SEC. 105. (a)(1)(A) The Director may provide a stipend to volunteers, while they are in training and during their assignments, enrolled for periods of service of not less than one year under this part, except that the Director may, on an individual basis, make an exception to provide a stipend to a volunteer enrolled under this part for an extended period of service not totaling one year.

(B) Such stipend shall not exceed \$95 per month in fiscal year 1994, but shall be set at a minimum of \$100 per month, and a maximum of \$125 per month assuming the availability of funds to accomplish such maximum, during the service of the volunteer after October 1, 1994. The Director may provide a stipend of a maximum of \$200 per month in the case of persons who have served as volunteers under this part for at least 1 year and who, in accordance with standards established in such regulations as the Director shall prescribe, have been designated volunteer leaders on the basis of experience and special skills and a demonstrated leadership among volunteers.

(C) The Director shall not provide a stipend under this subsection to an individual who elects to receive a national service

educational award under subtitle D of title I of the National and Community Service Act of 1990.

(2) Stipends shall be payable only upon completion of a period of service, except that under such circumstances as the Director shall determine, in accordance with regulations which the Director shall prescribe, the accrued stipend, or any part of the accrued stipend, may be paid to the volunteer, or, on behalf of the volunteer, to members of the volunteer's family or others during the period of the volunteer's service. In the event of the death of a volunteer during service, the amount of any unpaid stipend shall be paid in accordance with the provisions of section 5582 of title 5, United States Code.

(b)(1) The Director shall also provide volunteers such living, travel (including travel to and from places of training and to and from locations to which volunteers are assigned during periods of service) and leave allowances, and such housing, supplies, equipment, subsistence, clothing, health and dental care, transportation, supervision, preservice training and where appropriate in-service training, technical assistance and such other support as the Director deems necessary and appropriate to carry out the purpose and provisions of this part, and shall insure that each such volunteer has available such allowances and support as will enable the volunteer to carry out the purpose and provisions of this part and to effectively perform the work to which such volunteer is assigned.

(2) The Director shall set the subsistence allowance for volunteers under paragraph (1) for each fiscal year so that—

(A) the minimum allowance is not less than an amount equal to 95 percent of such poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2))) for a single individual as expected for each fiscal year; and

(B) the average subsistence allowance, excluding allowances for Hawaii, Guam, American Samoa, and Alaska, is no less than 105 percent of such poverty line.

(3) The Director shall adjust the subsistence allowances for volunteers serving in areas that have a higher cost of living than the national average to reflect such higher cost. The Director shall review such adjustments on an annual basis to ensure that the adjustments are current.

(c)(1) The Director shall—

(A) make child care available for children of each volunteer enrolled under this part who need such child care in order to participate as volunteers; or

(B) provide a child care allowance to each such volunteer who needs such assistance in order to participate as volunteers.

(2) The Corporation shall establish guidelines regarding the circumstances under which child care shall be made available under this subsection and the value of any child care allowance to be provided.

(42 U.S.C. 4955)

PARTICIPATION OF BENEFICIARIES

SEC. 106. To the maximum extent practicable, the people of the communities to be served by volunteers under this title shall participate in planning, developing, and implementing programs thereunder, and the Director, after consultation with sponsoring agencies (including volunteers assigned to them) and the people served by such agencies, shall establish in regulations a continuing mechanism for the meaningful participation of such program beneficiaries.

(42 U.S.C. 4956)

SEC. 107. PARTICIPATION OF YOUNGER AND OLDER PERSONS.

In carrying out this part and part C, the Director shall take necessary steps, including the development of special projects, where appropriate, to encourage the fullest participation of individuals 18 through 27 years of age, and individuals 55 years of age and older, in the various programs and activities authorized under such parts.

(42 U.S.C. 4957)

LIMITATION

SEC. 108. (a) Of funds appropriated for the purpose of this part under section 501, not more than 30 percent for the fiscal year ending September 30, 1984, and for each fiscal year thereafter, may be obligated for the direct cost of supporting volunteers in programs or projects carried out pursuant to grants and contracts made under section 402(12).

(b) No funds shall be obligated under this part pursuant to grants or contracts made after the date of the enactment of the Domestic Volunteer Service Act Amendments of 1979 for new projects for the direct cost of supporting volunteers unless the recipient of each such grant or contract has been selected through a competitive process which includes—

(1) public announcements of the availability of funds for such grants or contracts, general criteria for the selection of new recipients, and a description of the application process and the application review process; and

(2) a requirement that each applicant for any such grant or contract identify, with sufficient particularity to assure that the assignments of volunteers under such grants and contracts will carry out the purpose of this part, the particular poverty or poverty-related problems on which the grant or contract will focus, and any such grant or contract shall specifically so identify such problems.

(42 U.S.C. 4958)

VISTA LITERACY CORPS

SEC. 109. (a) As part of the Volunteers in Service to America program established under this part, the Director shall establish a VISTA Literacy Corps for the purpose of developing, strengthening, supplementing, and expanding efforts of both public and nonprofit organizations at the local, State, and Federal level to mobilize local, State, Federal, and private sector financial and volunteer resources to address the problem of illiteracy throughout the United States.

(b) The Director shall assign volunteers to projects and programs that meet the antipoverty criteria of part A that provide assistance to functionally illiterate and illiterate individuals who are unserved or underserved by literacy education programs, with special emphasis upon disadvantaged individuals having the highest risk of illiteracy, and individuals with the lowest reading and educational level of competence.

(c)(1) The Director shall assign volunteers under this subsection to projects and programs that utilize volunteers to address the needs of illiterate individuals.

(2) Programs and projects under this subsection may be administered by public or private nonprofit agencies and organizations including local, State, and national literacy councils and organizations; community-based nonprofit organizations; local and State education agencies; local and State agencies administering adult basic education programs; educational institutions; libraries; anti-poverty organizations; local, municipal, and State governmental entities, and eligible providers of employment and training activities under subtitle B of title I of the Workforce Investment Act of 1998.

(3) In the assignment of volunteers under this subsection the Director shall give priority consideration to—

(A) programs and projects that assist illiterate individuals in greatest need of assistance residing in unserved or underserved areas with the highest concentrations of illiteracy and of low income individuals and families;

(B) projects and programs serving individuals reading at the zero to fourth grade levels;

(C) projects and programs focusing on providing literacy services to high risk populations;

(D) projects and programs operating in areas with the highest concentration of individuals and families living at or below the poverty level;

(E) projects and programs providing literacy services to parents of disadvantaged children between the ages of two and eight, who may be educationally at risk; and

(F) Statewide programs and projects that encourage the creation of new literacy efforts, encourage the coordination of intrastate literacy efforts and provide technical assistance to local literacy efforts.

(d)(1) The Director shall assign volunteers under this subsection to projects and programs that primarily utilize volunteers to tutor illiterate individuals.

(2) Programs and projects under this subsection may be administered by local public or private nonprofit agencies and organizations including local literacy councils and organizations, community-based nonprofit organizations, local educational agencies, local agencies administering adult basic education programs, local educational institutions, libraries, antipoverty organizations, local and municipal governmental entities, and eligible providers of employment and training activities under subtitle B of title I of the Workforce Investment Act of 1998.

(3) In the assignment of volunteers under this subsection the Director shall give priority consideration to local programs and projects that assist illiterate individuals in greatest need of assistance residing in unserved or underserved areas with the highest

concentrations of illiteracy and of low income individuals and families.

(e) The Director shall ensure an equitable distribution of volunteers under this section in accordance with the equitable distribution requirement of section 414 of this Act.

(f) The VISTA Literacy Corps shall consist of all volunteers serving under part A working on literacy projects and programs.

(g) In any fiscal year in which the services provided under part A are reduced, the services provided under this section shall be proportionately reduced.

(h)(1) Subject to paragraph (2), with respect to any individual providing volunteer services in the program under this section regarding literacy, the Director may, with the written consent of the individual, assign the individual to serve in the general program under this part regarding literacy.

(2) To the extent practicable and without undue delay, the Director shall ensure that a volunteer under this section is assigned to the vacancy created within the relevant literacy project or program established under this section.

(42 U.S.C. 4959)

SEC. 110. APPLICATIONS FOR ASSISTANCE.

In reviewing an application for assistance under this part, the Director shall not deny such assistance to any project or program, or any public or private nonprofit organization, solely on the basis of the duration of the assistance such project, program, or organization has received under this part prior to the date of submission of the application. The Director shall grant assistance under this part on the basis of merit and to accomplish the goals of the VISTA program, and shall consider the needs and requirements of projects in existence on such date as well as potential new projects.

(42 U.S.C. 4960)

PART B—UNIVERSITY YEAR FOR VISTA

STATEMENT OF PURPOSE

SEC. 111. (a) The purpose of this part is to assist students, through service-learning and community service programs, to undertake volunteer service in such a way as to enhance the educational value of the service experience, through participation in activities that strengthen and supplement efforts to eliminate and alleviate poverty and poverty-related problems. Its purpose further is to provide technical assistance and training to encourage other students and faculty to engage in volunteer service on a part-time, self-supporting basis, to meet the needs of the poor in the surrounding community through expansion of service-learning and community service programs and otherwise.

(b) This part provides for the University Year for VISTA (UYV) program of full-time volunteer service by students enrolled in institutions of higher education. The purpose of the UYV program is to strengthen and supplement efforts to eliminate poverty and poverty-related human, social, and environmental problems by enabling students at cooperating institutions to perform meaningful and constructive volunteer service in connection with the satisfaction of course-work while attending such institutions. Volunteer

service under this part is conducted in agencies, institutions, and situations where the application of human talent and dedication may assist in the solution of poverty and poverty-related problems and secure and exploit opportunities for self-advancement by individuals experiencing such problems.

(42 U.S.C. 4971)

AUTHORITY TO OPERATE UNIVERSITY YEAR FOR VISTA PROGRAM

SEC. 112. Except as otherwise provided in this part, the Director is authorized to conduct or make grants and contracts for, or both, programs to carry out the purposes of this part in accordance with the authorities and subject to the restrictions in the provisions of part A of this title, except for the provisions of sections 103(f) and 104(d), and except that the Director may, in accordance with regulations the Director shall prescribe, determine to reduce or eliminate the stipend for volunteers serving under this part on the basis of the value of benefits provided such volunteers by the institution in question (including the reduction or waiver of tuition).

(42 U.S.C. 4972)

SPECIAL CONDITIONS

SEC. 113. (a) Volunteers serving under this part shall be enrolled for periods of service as provided for in subsection (b) of section 104, except that volunteers serving in the University Year for VISTA program may be enrolled for periods of service of not less than the duration of an academic semester or its equivalent, but volunteers enrolled for less than 12 months shall not receive stipends under section 105(a)(1). Volunteers serving under this part may receive academic credit for such service in accordance with the regulations of the sponsoring institution of higher education. Volunteers may receive a living allowance and such other support or allowances as the Director determines to be appropriate.

(b) Grants to and contracts with institutions to administer programs under this part shall provide that prospective student volunteers shall participate substantially in the planning of such programs and that such institutions shall make available to the poor in the surrounding community all available facilities, including human resources, of such institutions in order to assist in meeting the needs of such poor persons.

(c)(1) In making grants or contracts for the administration of UYV programs under this part, the Director shall insure that financial assistance under this Act to programs carried out pursuant to section 112 of this part shall not exceed 90 per centum of the total cost (including planning costs) of such program during the first year and such amounts less than 90 per centum as the Director, in consultation with the institution, may determine for not more than four additional years, including years in which support was received under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991-2994d). Each such grant or contract shall stipulate that the institution will make every effort to (A) assume an increasing proportion of the cost of continuing a program carrying out the purpose of this part while the institution receives support under this part; (B) waive or otherwise reduce tuition for participants in such program, where such waiver is not

prohibited by law; (C) utilize students and faculty at such institution to carry out, on a self-supporting basis, appropriate planning for such programs; and (D) maintain similar service-learning programs after such institution no longer receives support under this part.

(2) The Director shall take necessary steps to monitor the extent of compliance by such institutions with commitments entered into under paragraph (1) of this subsection and shall advise the Secretary of Health and Human Services of the extent of each such institution's compliance.

(42 U.S.C. 4973)

PART C—SPECIAL VOLUNTEER PROGRAMS

STATEMENT OF PURPOSE

SEC. 121. This part provides for special emphasis and demonstration volunteer programs, together with appropriate powers and responsibilities designed to assist in the development and coordination of such programs. The purpose of this part is to strengthen and supplement efforts to meet a broad range of needs, particularly those related to poverty, by encouraging and enabling persons from all walks of life and from all age groups to perform meaningful and constructive volunteer service in agencies, institutions, and situations where the application of human talent and dedication may help to meet such needs. It is the further purpose of this part to provide technical and financial assistance to encourage voluntary organizations and volunteer efforts at the national, State, and local level.

(42 U.S.C. 4991)

SEC. 122. AUTHORITY TO ESTABLISH AND OPERATE SPECIAL VOLUNTEER AND DEMONSTRATION PROGRAMS.

(a) **IN GENERAL.**—The Director is authorized to conduct special volunteer programs for demonstration programs, or award grants to or enter into contracts with public or nonprofit organizations to carry out such programs. Such programs shall encourage wider volunteer participation on a full-time, part-time, or short-term basis to further the purpose of this part, and identify particular segments of the poverty community that could benefit from volunteer and other antipoverty efforts.

(b) **ASSIGNMENT AND SUPPORT OF VOLUNTEERS.**—The assignment of volunteers under this section, and the provision of support for such volunteers, including any subsistence allowances and stipends, shall be on such terms and conditions as the Director shall determine to be appropriate, but shall not exceed the level of support provided under section 105. Projects using volunteers who do not receive stipends may also be supported under this section.

(c) **CRITERIA AND PRIORITIES.**—In carrying out this section and section 123, the Director shall establish criteria and priorities for awarding grants and entering into contracts under this part in each fiscal year. No grant or contract exceeding \$100,000 shall be made under this part unless the recipient of the grant or contractor has been selected by a competitive process that includes public announcement of the availability of funds for such grant or contract, general criteria for the selection of recipients or contractors, and a

description of the application process and application review process.

(42 U.S.C. 4992)

SEC. 123. TECHNICAL AND FINANCIAL ASSISTANCE.

The Director may provide technical and financial assistance to Federal agencies, State and local governments and agencies, private nonprofit organizations, employers, and other private organizations that utilize or desire to utilize volunteers in carrying out the purpose of this part.

(42 U.S.C. 4993)

LITERACY CHALLENGE GRANTS

SEC. 124. (a) The Director is authorized to award challenge grants to eligible public agencies and private organizations to pay the Federal share of the costs of establishing, operating or expanding community or employee literacy programs or projects that include the use of full-time or part-time volunteers as one method of addressing illiteracy.

(b) Each eligible organization desiring a grant under this section shall submit to the Corporation an application in such form and accompanied by such information as the Director may reasonably require. Each such application shall—

- (1) describe the activities for which assistance is sought,
- (2) contain assurances that the eligible organization will provide from non-Federal sources the non-Federal share of the cost of the program or project,
- (3) provide assurances, satisfactory to the Director, that the literacy project will be operated in cooperation with other public and private agencies and organizations interested in, and qualified to, combat illiteracy in the community where the project is to be conducted, and
- (4) contain such other information and assurances as the Director may reasonably require.

(c)(1)(A) The Federal share of the cost of a program or project authorized by this section administered by a public agency, a nonprofit organization other than an organization described in paragraph (2), or a private, for-profit organization shall not exceed—

- (i) 80 percent in the first fiscal year;
- (ii) 70 percent in the second fiscal year; and
- (iii) 60 percent in the third fiscal year.

(B) The non-Federal share paid by a private, for-profit organization shall be in cash.

(2) The Federal share of the cost of a program or project administered by a nonprofit or community-based organization shall not exceed—

- (A) 90 percent in the first fiscal year;
- (B) 80 percent in the second fiscal year; and
- (C) 70 percent in the third fiscal year.

(3) The non-Federal share provided by a public agency or a nonprofit or community-based organization may be provided in cash, or in kind, fairly evaluated, and may include the use of plant, equipment, and services.

(42 U.S.C. 4995)

TITLE II—NATIONAL SENIOR VOLUNTEER CORPS

STATEMENT OF PURPOSES

SEC. 200. It is the purpose of—

(1) this title to provide for National Senior Volunteer Corps, comprised of the Retired and Senior Volunteer Program, the foster grandparent program, and the senior companion program, that empower older individuals to contribute to their communities through volunteer service, enhance the lives of the volunteers and those whom they serve, and provide communities with valuable services;

(2) part A, the Retired and Senior Volunteer Program, to utilize the vast talents of older individuals willing to share their experiences, abilities, and skills in responding to a wide variety of community needs;

(3) part B, the foster grandparent program, to afford low-income older individuals an opportunity to provide supportive, individualized services to children with exceptional or special needs; and

(4) part C, the senior companion program, to afford low-income older individuals the opportunity to provide personal assistance and companionship to other older individuals through volunteer service.

(42 U.S.C. 5000)

PART A—RETIRED AND SENIOR VOLUNTEER PROGRAM

GRANTS AND CONTRACTS FOR VOLUNTEER SERVICE PROJECTS

SEC. 201. (a) In order to help retired individuals and working older individuals to avail themselves of opportunities for volunteer service in their community, the Director is authorized to make grants to State agencies (established or designated pursuant to section 305(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3025(a)(1))) or grants to or contracts with other public and nonprofit private agencies and organizations to pay part or all of the costs for the development or operation, or both, of volunteer service projects under this section, if the Director determines, in accordance with regulations the Director shall prescribe, that—

(1) volunteers will not be reimbursed for other than transportation, meals, and other out-of-pocket expenses incident to the provision of services under this part;

(2) only individuals 55 years of age or older will be enrolled, and individuals 60 years of age or older will be given priority for enrollment, as volunteers to provide services under this part (except for administrative purposes), and such services will be performed in the community where such individuals reside or in nearby communities either (A) on publicly owned and operated facilities or projects, or (B) on local projects sponsored by private nonprofit organizations (other than political parties), other than projects involving the construction, operation, or maintenance of so much of any facility used or to be used for sectarian instruction or as a place for religious worship;

(3) the project includes such short-term training as may be necessary to make the most effective use of the skills and talents of participating volunteers and individuals, and provide for the payment of the reasonable expenses of such volunteers while undergoing such training; and

(4) the project is being established and will be carried out with the advice of persons competent in the field of service involved, and or persons with interest in and knowledge of the needs of older persons.

(b) In no event shall the required proportion of the local contribution (including in-kind contributions) for a grant or contract made under this section be more than 10 per centum in the first year of assistance under this section, 20 per centum in the second such year, 30 per centum in any subsequent such years: Provided, however, That the Director may make exceptions in cases of demonstrated need, determined (in accordance with regulations which the Director shall prescribe) on the basis of the financial capability of a particular recipient of assistance under this section, to permit a lesser local contribution proportion than any required contribution proportion established by the Director in generally applicable regulations.

(c) The Director shall not award any grant or contract under this part for a project in any State to any agency or organization unless, if such State has a State agency established or designated pursuant to section 305(a)(1) of the Older Americans Act of 1965, as amended (42 U.S.C. 3025(a)(1)), such agency itself is the recipient of the award or such agency has been afforded at least forty-five days in which to review the project application and make recommendations thereon.

(d) Notwithstanding any other provision of law, volunteer service under this part shall not be deemed employment for any purpose which the Director finds is not fully consistent with the provisions and in furtherance of the purpose of this part.

(42 U.S.C. 5001)

PART B—FOSTER GRANDPARENT PROGRAM

GRANTS AND CONTRACTS FOR VOLUNTEER SERVICE PROJECTS

SEC. 211. (a) The Director is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of development and operation of projects (including direct payments to individuals serving under this part) designed for the purpose of providing opportunities for low-income persons aged sixty or over to provide supportive person-to-person services in health, education, welfare, and related settings to children having exceptional needs. Such services may include services by individuals serving as foster grandparents to children who are individuals with disabilities, who have chronic health conditions, who are receiving care in hospitals, who are residing in homes for dependent and neglected children, or who are receiving services provided by day care centers, schools, early intervention programs under part H of the Individuals with Disabilities Education Act (20 U.S.C. 1471 et seq.), Head Start agencies under the Head Start Act, or any of a variety of other programs, establishments, and institutions providing services for children with special

or exceptional needs. Individual foster grandparents may provide person-to-person services to one or more children, depending on the needs of the project and local site. The Director may approve assistance in excess of 90 per centum of the costs of the development and operation of such projects only if the Director determines, in accordance with regulations the Director shall prescribe establishing objective criteria, that such action is required in furtherance of the purpose of this section. Provision for such assistance shall be effective as of September 19, 1972. In the case of any project with respect to which, prior to such date, a grant or contract has been made under section 611(a) of the Older Americans Act of 1965, as amended (42 U.S.C. 3044(b) or with respect to any project under the Foster Grandparent program in effect prior to September 17, 1969, contributions in cash or in kind from the Bureau of Indian Affairs, Department of the Interior, toward the cost of the project may be counted as part of the cost thereof which is met from non-Federal sources.

(b)(1) Any public or private nonprofit agency or organization responsible for providing person-to-person services to a child in a project carried out under subsection (a) of this section shall have the exclusive authority to determine, pursuant to the provisions of paragraph (2) of this subsection—

(A) which children may receive supportive person-to-person services under such project; and

(B) the period of time during which such services shall be continued in the case of each individual child.

(2) In the event that such an agency or organization determines that it is in the best interests of a mentally retarded child receiving, and of a particular foster grandparent providing, services in such a project, such relationship may be continued after the child reaches the chronological age of 21: *Provided*, That such child was receiving such services prior to attaining the chronological age of 21. If the particular foster grandparent subject to the determination under this paragraph becomes unavailable to serve after such determination is made, the agency or organization may select another foster grandparent.

(3) Any determination made by a public or nonprofit private agency or organization under paragraphs (1) and (2) of this subsection shall be made through mutual agreement by all parties involved with respect to the provision of services to the child involved.

(c) For the purposes of this section, the terms “child” and “children” mean any individual or individuals who are less than 21 years of age.

(d) The Director, in accordance with regulations the Director shall prescribe, may provide to low-income persons serving as volunteers under this part, such allowances, stipends, and other support as the Director determines are necessary to carry out the purpose of this part. Any stipend or allowance provided under this section shall not be less than \$2.45 per hour on and after October 1, 1993, and shall be adjusted once prior to December 31, 1997, to account for inflation, as determined by the Director and rounded to the nearest five cents, except that (1) such stipend or allowance shall not be increased as a result of an amendment made to this sentence unless the funds appropriated for carrying out this part

are sufficient to maintain for the fiscal year in question a number of participants to serve under this part at least equal to the number of such participants serving during the preceding fiscal year, and (2) in the event that sufficient appropriations for any fiscal year are not available to increase any such stipend or allowance provided to the minimum hourly rate specified in this sentence, the Director shall increase the stipend or allowance to such amount as appropriations for such year permit consistent with clause (1) of this exception. In establishing the amount of, and the effective date for, such adjustment, the Director, in consultation with the State Commissions on National and Community Service (as established under section 178 of the National and Community Service Act of 1990) and the heads of the State offices established under section 195 of such Act, shall consider the effect such adjustment will have on the ability of non-federally funded volunteer programs similar to the programs under this title to maintain their current level of volunteer hours.

(e) For purposes of this part, the terms "low-income person" and "person of low income" mean—

(1) any person whose income is not more than 125 per centum of the poverty line defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) and adjusted by the Director in the manner described in such section; and

(2) any person whose income is not more than 100 per centum of such poverty line, as so adjusted and determined by the Director after taking into consideration existing poverty guidelines as appropriate to local situations.

Persons described in paragraph (2) shall be given special consideration for participation in projects under this part.

(f)(1)(A) Except as provided in subparagraphs (B) and (C), individuals who are not low-income persons may serve as volunteers under this part, in accordance with such regulations as the Director shall issue, if such individuals serve without receiving any allowance, stipend, or other financial support under this part except reimbursement for transportation, meals, and out-of-pocket expenses incident to serving under this part.

(B) The regulations issued by the Director to carry out this part (other than any regulations relating to allowances, stipends, and other financial support authorized by subsection (d) to be paid under this part to low-income persons) shall apply to all volunteers under this part, without regard to whether such volunteers are eligible to receive a stipend under subsection (d).

(C) Individuals who are not low-income persons may not serve as volunteers under this part in any community in which there are volunteers serving under part A of this title unless such individuals have been referred previously for possible placement as volunteers under part A and such placement did not occur.

(2)(A) Except as provided in subparagraph (B), each recipient of a grant or contract to carry out a project under this part shall give equal treatment to all volunteers who participate in such project, without regard to whether such volunteers are eligible to receive a stipend under subsection (d).

(B) An individual who is not a low-income person may not become a volunteer under this part if allowing such individual to become a volunteer under this part would prevent a low-income indi-

vidual from becoming a volunteer under this part or would displace a low-income person from being such a volunteer.

(3)¹ The Director may not take into consideration or require as a condition of receiving a grant or contract to carry out a project under this part, any applicant for such grant or contract—

(A) to accept or recruit individuals who are not low-income persons to serve as volunteers under this part; or

(B) to solicit locally generated contributions, in cash or in kind, to support such individuals.

The Director may not coerce any applicant for, or recipient of, such grant or contract to engage in conduct described in subparagraph (A) or (B).

(4) Funds appropriated to carry out this part may not be used to pay any cost, including any administrative cost, incurred in connection with volunteers under this part who do not receive a stipend under subsection (d). Such cost incurred with respect to a volunteer may be paid with—

(A) funds received by the Director as unrestricted gifts;

(B) funds received by the Director as gifts to pay such cost;

(C) funds contributed by such volunteer; or

(D) locally generated contributions in excess of the amount required to be contributed under subsection (a), in the discretion of the recipient of a grant or contract under such subsection.

(42 U.S.C. 5011)

PART C—SENIOR COMPANION PROGRAM

GRANTS AND CONTRACTS FOR VOLUNTEER SERVICE PROJECTS

SEC. 213. (a) The Director is authorized to make grants to or contracts with public and nonprofit private agencies and organizations to pay part or all of the cost of development and operation of projects (including direct payments to individuals serving under this part in the same manner as provided in section 211(a)) designed for the purpose of providing opportunities for low-income persons aged 60 or over to serve as “senior companions” to persons with exceptional needs. Senior companions may provide services designed to help older persons requiring long-term care, including services to persons receiving home health care, nursing care, home-delivered meals or other nutritional services; services designed to help persons deinstitutionalized from mental hospitals, nursing homes, and other institutions; and services designed to assist persons having developmental disabilities and other special needs for companionship.

(b) Subsections (d), (e), and (f) of section 211, and such other provisions of part B as the Director determines to be necessary, shall apply to this part, except that for purposes of this part any reference in such subsections and such provisions to part B shall be deemed to be a reference to this part.

¹ Section 7(a) of Public Law 99-551, approved October 27, 1987, provides as follows:

“(2) Section 211(f)(3) of the Domestic Volunteer Service Act of 1973, as added by paragraph (1), shall apply with respect to grants and contracts made under section 211(a) of such Act before the date of the enactment of this Act.”

(c)(1) The Director is authorized to make grants or contracts after subsection (a) for senior companion projects to assist homebound elderly individuals to remain in their own homes and to enable institutionalized elderly individuals to return to home care settings.

(2)(A) The Director is authorized to recruit, subject to subparagraph (B), senior companion volunteer trainers who on the basis of experience (such as, doctors, nurses, home economists, social workers) will be used to train senior companion volunteers to participate in and monitor initial and continuing needs assessments and appropriate in-home services for senior companion volunteer recipients. The needs assessments and in-home services shall be coordinated with and supplement existing community based home health and long-term care systems. The Director may also use senior companion volunteer leaders, who on the basis of experience as volunteers, special skills, and demonstrated leadership abilities may spend time in the program (in addition to their regular assignment) to assist newer senior companion volunteers in performing their assignments and in coordinating activities of such volunteers.

(B) Senior companion volunteer trainers recruited under subparagraph (A) of this paragraph shall not be paid stipends.

(42 U.S.C. 5013)

PART D—GENERAL PROVISIONS

PROMOTION OF NATIONAL SENIOR VOLUNTEER CORPS

SEC. 221. (a)(1) In carrying out this title, the Director shall consult with the Departments of Labor and Health and Human Services, and any other Federal agencies administering relevant programs with a view to achieving optimal coordination with such other programs, and shall promote the coordination of projects under this title with other public or private programs or projects carried out at State and local levels. Such Federal agencies shall cooperate with the Director in disseminating information about the availability of assistance under this title and in promoting the identification and interest of low-income and other older persons whose services may be utilized in projects under this title.¹

¹Section 205(c) of Public Law 94-135, *supra*, provides:

“(c)(1) In order to provide maximum coordination between programs carried out under title III and title VII of the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.; 42 U.S.C. 3045 et seq.) and national older American volunteer programs carried out under title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5001 et seq.), and in order to enhance the effectiveness of the support provided to such national older American volunteer programs by the ACTION Agency, the Director of the ACTION Agency shall designate an aging resource specialist with respect to programs carried out in each State under title II of the Domestic Volunteer Service Act of 1973.

“(2)(A) Each aging resource specialist designated under paragraph (1) shall be qualified to serve in such capacity by appropriate experience and training, and shall be stationed in a State office of the ACTION Agency.

“(B) The primary responsibility of each aging resource specialist shall be—

“(i) to support programs carried out under title II of the Domestic Volunteer Service Act of 1973 in any State or other jurisdiction served by the State office involved; and

“(ii) to seek to coordinate such programs with programs carried out under title III and title VII of the Older Americans Act of 1965 in any such State or other jurisdiction.

“(3) For purposes of this subsection—

“(A) the term ‘ACTION Agency’ means the ACTION Agency established by section 401 of the Act (42 U.S.C. 5041);

“(B) the term ‘primary responsibility’ means the devotion of more than one-half of regular working hours to the performance of duties described in paragraph (2)(B); and

Continued

(2) To the maximum extent practicable, the Director shall enter into agreements with—

(A) the Department of Health and Human Services to—

(i) involve retired and senior volunteers, and foster grandparents, in Head Start programs;

(ii) involve retired and senior volunteers, and senior companions, in providing services authorized by title III of the Older Americans Act of 1965; and

(iii) promote the recognition of such volunteers who are qualified to provide in-home services for reimbursement under title XVIII of the Social Security Act for providing such services;

(B) the Department of Education to promote intergenerational tutoring and mentoring for at-risk children; and

(C) the Environmental Protection Agency to support conservation efforts.

(b)(1) In carrying out this title, the Director shall encourage and facilitate the efforts of private organizations to promote the programs established in parts A, B, and C and the involvement of older individuals as volunteers in such programs.

(2) The Director shall take appropriate actions to ensure that special efforts are made to publicize the programs established in parts A, B, and C, in order to facilitate recruitment efforts, to encourage greater participation of volunteers, and to emphasize the value of volunteering to the health and well-being of volunteers and the communities of such volunteers. Such actions shall include informing recipients of grants and contracts under this title of all informational materials available from the Director.

(3) From funds appropriated under section 502, the Director shall expend not less than \$375,000 in each fiscal year to carry out paragraph (2).

(42 U.S.C. 5021)

PAYMENTS

SEC. 222. Payments under this title pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions, as the Director may determine.

(42 U.S.C. 5022)

MINORITY GROUP PARTICIPATION

SEC. 223. The Director shall take appropriate steps to insure that special efforts are made to recruit, select, and assign qualified individuals sixty years and older from minority groups to serve as volunteers under this title.

(42 U.S.C. 5023)

^(C) the term 'State' means the several States, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands."

USE OF LOCALLY GENERATED CONTRIBUTIONS IN NATIONAL SENIOR
VOLUNTEER CORPS

SEC. 224. Whenever locally generated contributions made to National Senior Volunteer Corps projects under this title are in excess of the amount required by the Director, the Director may not restrict the manner in which contributions are expended if expenditures from locally generated contributions are not inconsistent with the provisions of this Act.

(42 U.S.C. 5024)

PROGRAMS OF NATIONAL SIGNIFICANCE

SEC. 225. (a)(1) With not less than one-third of the funds made available under subsection (d) in each fiscal year, the Director shall make grants under the programs authorized in parts A, B, and C to support programs that address national problems of local concern.

(2) Except as provided in paragraph (3), the Director may make such grants—

(A) under the program authorized in part A, to support programs that address the national problems specified in subsection (b);

(B) under the program authorized in part B, to support programs that address the national problems specified in subsection (b), other than paragraphs (10), (12), (15), and (16) of such subsection; and

(C) under the program authorized in part C, to support programs that address the national problems referred to in paragraphs (1), (2), (5), (6), and (10) of subsection (b).

(3) Each program for which a grant is received under this subsection shall be carried out in accordance with the requirements applicable to the program under part A, B, or C under which the program supported by such grant is to be carried out.

(b) The Director shall make grants under subsection (a) to support one or more of the following programs to address problems that concern the Nation:

(1) Programs that assist individuals with chronic and debilitating illnesses, such as acquired immune deficiency syndrome.

(2) Programs designed to decrease drug and alcohol abuse.

(3) Programs that work with teenage parents.

(4) Programs that match volunteer mentors with youth who need guidance.

(5) Programs that provide adult and school-based literacy assistance.

(6) Programs that provide respite care, including care for frail elderly individuals and for disabled or chronically ill children living at home.

(7) Programs that provide before- and after-school activities that are sponsored by organizations, such as libraries, that serve children of working parents.

(8) Programs that work with boarder babies.

(9) Programs that serve children who are enrolled in child care programs, giving priority to such programs that serve children with special needs.

(10) Programs that provide care to developmentally disabled adults who reside at home and in community-based settings, including programs that, when appropriate, involve older developmentally disabled individuals as volunteers under this title.

(11) Programs that provide volunteer tutors to assist educationally disadvantaged children, on a one-to-one basis, to improve the basic skills of such children.

(12) Programs that address environmental needs.

(13) Programs that reach out to organizations (such as labor unions and profitmaking organizations) not previously involved in addressing national problems of local concern.

(14) Programs that provide for outreach to increase participation of members of ethnic groups who have limited English proficiency.

(15) Programs that support criminal justice activities and juvenile justice activities.

(16) Programs that involve older volunteers working with young people in apprenticeship programs.

(17) Programs that support the community integration of individuals with disabilities.

(18) Programs that provide health, education, and welfare services that augment the activities of State and local agencies, to be carried out in a fiscal year for which the aggregate amount of funds available to such agencies is not less than the annual average aggregate amount of funds available to such agencies for the period of 3 fiscal years preceding such fiscal year.

(c)(1) In order for an applicant to be eligible to receive a grant under subsection (a), such applicant shall demonstrate to the Director that such grant will be used to increase the total number of volunteers supported by such applicant.

(2) Funds made available under subsection (d) shall be used to supplement and not supplant the number of volunteers engaged in activities under parts A, B, and C (without regard to this section) addressing the problem for which such funds are awarded unless such sums are an extension of funds previously provided under this section.

(d)(1) Except as provided in paragraph (2), from the amounts appropriated under subsection (a), (b), (c), or (d) of section 502, for each fiscal year there shall be available to the Director such sums as may be necessary to make grants under subsection (a).

(2) No funds shall be available to the Director to make grants under subsection (a) for a fiscal year unless the amounts appropriated under subsections (a), (b), and (c) of section 502 and available for such fiscal year to carry out parts A, B, and C (without regard to this section) are sufficient to maintain the number of projects and volunteers funded under parts A, B, and C, respectively, in the preceding fiscal year.

(e) The Director shall disseminate information on grants that may be made under subsection (a) to field personnel of the Corporation and to community volunteer organizations that request such information.

ADJUSTMENTS TO FEDERAL FINANCIAL ASSISTANCE

SEC. 226. (a)(1) In determining the amount of Federal financial assistance to be provided under this title to applicants, the Director shall consider the impact of changes in the Consumer Price Index For All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor on the administrative costs of operating the projects for which such assistance will be provided.

(2) The Director shall, to the fullest extent practicable, make appropriate adjustments in the amount referred to in paragraph (1) to ensure the effective administration of such projects.

(b) The Director shall take reasonable actions to inform applicants for such assistance that such adjustments may be available.

(42 U.S.C. 5026)

MULTIYEAR GRANTS OR CONTRACTS

SEC. 227. (a)(1) Subject to paragraph (2) and the availability of funds, the Director may make a grant or enter into a contract under part A, B, or C for a period not to exceed 3 years. Each applicant who receives a grant, or enters into a contract, under such part for a period exceeding 1 year shall comply with such regulations as the Director may issue to require such applicant—

(A) to demonstrate that such applicant is in compliance with such part and with the terms and conditions of such grant or contract; and

(B) to provide information to update the application submitted to obtain such grant or contract.

(2) If the amount appropriated for any fiscal year to carry out part A, B, or C in a period during which multiyear grants or contracts are in effect under such part is less than the amount appropriated to carry out such part in the first fiscal year in such period, then the amounts payable under all such grants and contracts in effect in such period under such part shall be reduced pro rata.

(b) The Director shall require each applicant for a multiyear grant or contract under this section, to document or describe in the application any meaningful administrative savings that will result from such multiyear grant or contract.

(c) If an applicant does not receive a multiyear grant or contract under this section, the Director shall consider such applicant for a single-year grant or contract.

(d) If the Director approves an application for a contract or grant to carry out a project for a multiyear period as referred to in subsection (a), the Director shall ensure that such project shall be treated in the same manner as a single-year contract or grant with respect to—

(1) the overall level of funding for such project;

(2) any adjustments to Federal financial assistance that may be available under section 226; and

(3) the renewal of funding on the expiration of the term of such contract or grant.

PART E—DEMONSTRATION PROGRAMS

SEC. 231. AUTHORITY OF DIRECTOR.

(a) **IN GENERAL.**—The Director is authorized to make grants to or enter into contracts with public or nonprofit organizations, including organizations funded under part A, B, or C, for the purposes of demonstrating innovative activities involving older Americans as volunteers. The Director may support under this part both volunteers receiving stipends and volunteers not receiving stipends.

(b) **ACTIVITIES.**—An organization that receives a grant or enters into a contract under subsection (a) may use funds made available through the grant or contract for activities such as—

- (1) linking youth groups and older American organizations in volunteer activities;
- (2) involving older volunteers in programs and activities different from programs and activities supported in the community; and
- (3) testing whether older American volunteer programs may contribute to new objectives or certain national priorities.

(42 U.S.C. 5028)

SEC. 232. PROHIBITION.

The Director may not reduce the activities, projects, or volunteers funded under the other parts of this title in order to support projects under this part.

(42 U.S.C. 5028a)

[TITLE III—Repealed]

TITLE IV—ADMINISTRATION AND COORDINATION

[Sec. 401 Repealed]¹

[Sec. 402 Repealed]¹

POLITICAL ACTIVITIES

SEC. 403. (a) No part of any funds appropriated to carry out this Act, or any program administered by the Corporation under this Act, shall be used to finance, directly or indirectly, and activity designed to influence the outcome of any election to Federal office, or the outcome of any election to any State or local public office, or any voter registration activity, or to pay the salary of any officer or employee of the Corporation, who, in an official capacity as such an officer or employee, engages in any such activity. As used in this section, the term “election” has the same meaning (when referring to an election for Federal office) given such term by section 301(1) of the Federal Election Campaign Act of 1971 (Public Law 92–225), and the term “Federal office” has the same meaning given such term by section 301(3) of such Act.

(b)(1) Programs assisted under this Act shall not be carried on in a manner involving the use of funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with—

¹ Sections 401 and 402 were repealed by section 203(b) of Public Law 103–82.

(A) any partisan or nonpartisan political activity associated with a candidate, or a contending faction or group, in an election for public or party office;

(B) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or

(C) any voter registration activity;

except that programs assisted under this Act may make voter registration applications and nonpartisan voter registration information available to the public on the premises of such programs.

(2) In carrying out any voter registration activity permitted under paragraph (1), an individual who is affiliated with, or employed to carry out, a program assisted under this Act shall not—

(A) indicate a preference with respect to any candidate, political party, or election issue; or

(B) seek to influence the political or party affiliation, or voting decision, of any individual.

(c) No funds appropriated to carry out this Act shall be used by any program assisted under this Act in any activity for the purpose of influencing the passage of defeat of legislation or proposals by initiative petition, except—

(1) in any case in which a legislative body, a committee of a legislative body, or a member of a legislative body requests any volunteer in, or employee of, such a program to draft, review, or testify regarding measures or to make representations to such legislative body, committee, or member; or

(2) in connection with an authorization or appropriations measure directly affecting the operation of the program.

(d) The Director, after consultation with the Office of Personnel Management, shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance for no more than thirty days until notice and an opportunity to be heard can be provided or other action necessary to permit enforcement on an emergency basis.

(42 U.S.C. 5043)

SPECIAL LIMITATIONS

SEC. 404. (a) The Director shall prescribe regulations and shall carry out the provisions of this Act so as to assure that the service of volunteers assigned, referred, or serving pursuant to grants, contracts, or agreements made under this Act is limited to activities which would not otherwise be performed by employed workers and which will not supplant the hiring of or result in the displacement of employed workers, or impair existing contracts for service.

(b) All support, including transportation provided to volunteers under this Act, shall be furnished at the lowest possible costs consistent with the effective operation of volunteer programs.

(c) No agency or organization to which volunteers are assigned hereunder, or which operates or supervises any voluntary program hereunder, shall request or receive any compensation from such volunteers or from beneficiaries for services of volunteers supervised by such agency or organization.

(d) No funds authorized to be appropriated herein shall be directly or indirectly utilized to finance labor or anti-labor organization or related activity.

(e) Persons serving as volunteers under this Act shall provide such information concerning their qualifications, including their ability to perform their assigned tasks, and their integrity, as the Director shall prescribe and shall be subject to such procedures for selection and approval as the Director determines are necessary to carry out the purposes of this Act. The Director may establish such special procedures for the recruitment, selection, training, and assignment of low-income residents of the area to be served by a program under this Act who wish to become volunteers as the Director determines will further the purposes of this Act.

(f)(1) Notwithstanding any other provision of law except as may be provided expressly in limitation of this subsection, payments to volunteers under this Act shall not in any way reduce or eliminate the level of or eligibility for assistance or services any such volunteers may be receiving under any governmental program, except that this paragraph shall not apply in the case of such payments when the Director determines that the value of all such payments, adjusted to reflect the number of hours such volunteers are serving, is equivalent to or greater than the minimum wage then in effect under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) or the minimum wage, under the laws of the State where such volunteers are serving, whichever is the greater.

(2) Notwithstanding any other provision of law, a person enrolled for full-time service as a volunteer under title I of this Act who was otherwise entitled to receive assistance or services under any governmental program prior to such volunteer's enrollment shall not be denied such assistance or services because of such volunteer's failure or refusal to register for, seek, or accept employment or training during the period of such service.

(42 U.S.C. 5044)

[Sec. 405 Repealed]¹

LABOR STANDARDS

SEC. 406. All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating of projects, buildings and works which are federally assisted under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5). The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Number 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and in section 2 of the Act of June 1, 1934, as amended (48 Stat. 948, ch. 492, as amended; 40 U.S.C. 276c).

(42 U.S.C. 5046)

[Sec. 407 Repealed]²

¹ Section 405 was repealed by section 20 of Public Law 98-288, effective January 1, 1986.

² Section 407 was repealed by section 367 of Public Law 103-82.

JOINT FUNDING

SEC. 408. Pursuant to regulations prescribed by the President, and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to an agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided, and, notwithstanding any other provision of law, in such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each agency. When the principal agency involved is the Corporation, it may waive any grant or contract requirement (as defined by such regulations) under or pursuant to any law other than this Act, which requirement is inconsistent with the similar requirements under or pursuant to this Act.

(42 U.S.C. 5048)

PROHIBITION OF FEDERAL CONTROL

SEC. 409. Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any education institution or school system.

(42 U.S.C. 5049)

COORDINATION WITH OTHER PROGRAMS

SEC. 410. The Director shall take necessary steps to coordinate volunteer programs authorized under this Act with one another, with community action programs, and with other related Federal, State, and local programs. The Director shall also consult with the heads of other Federal, State, and local agencies responsible for programs related to the purposes of this Act with a view to encouraging greater use of volunteer services in those programs and establishing in connection with them systematic procedures for the recruitment, referral, or necessary preservice orientation or training of volunteers serving pursuant to this Act. The Director, in consultation with the Director of the Office of Personnel Management and the Secretaries of Labor, Commerce, and the Treasury and officials of other appropriate departments and agencies, shall take all appropriate steps to encourage State and local governments, charitable and service organizations, and private employers (1) to take into account experience in volunteer work in the consideration of applicants for employment; and (2) to make provisions for the listing and description of volunteer work on all employment application forms.

(42 U.S.C. 5050)

PROHIBITION

SEC. 411. In order to assure that existing Federal agencies are used to the fullest extent possible in carrying out the purposes of this Act, no funds appropriated to carry out this Act shall be used

to establish any new department or office when the intended function is being performed by an existing department or office.

(42 U.S.C. 5051)

NOTICE AND HEARING PROCEDURES FOR SUSPENSION AND
TERMINATION OF FINANCIAL ASSISTANCE

SEC. 412. (a) The Director is authorized, in accordance with the provisions of this section, to suspend further payments or to terminate payments under any contract or grant providing assistance under this Act, whenever the Director determines there is a material failure to comply with the applicable terms and conditions of any such grant or contract. The Director shall prescribe procedures to insure that—

(1) assistance under this Act shall not be suspended for failure to comply with applicable terms and conditions, except in emergency situations for thirty days;

(2) an application for refunding under this Act may not be denied unless the recipient has been given (A) notice at least 75 days before the denial of such application of the possibility of such denial and the grounds for any such denial, and (B) opportunity to show cause why such action should not be taken;

(3) in any case where an application for refunding is denied for failure to comply with the terms and conditions of the grant or contract award, the recipient shall be afforded an opportunity for an informal hearing before an impartial hearing officer, who has been agreed to by the recipient and the Agency; and

(4) assistance under this Act shall not be terminated for failure to comply with applicable terms and conditions unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing.

(b) In order to assure equal access to all recipients, such hearings or other meetings as may be necessary to fulfill the requirements of this section shall be held at locations convenient to the recipient agency.

(42 U.S.C. 5052)

[Sec. 413, Repealed.]¹

DISTRIBUTION OF BENEFITS BETWEEN RURAL AND URBAN AREAS

SEC. 414. The Director shall adopt appropriate administrative measures to assure that the benefits of and services under this Act will be distributed equitably between residents of rural and urban areas.

(42 U.S.C. 5054)

APPLICATION OF FEDERAL LAW

SEC. 415. (a) Except as provided in subsections (b), (c), (d), and (e) of this section, volunteers under this Act shall not be deemed Federal employees and shall not be subject to the provisions of laws relating to Federal officers and employees and Federal employment.

¹ Section 413 was repealed by section 5(a) of P.L. 94-293.

(b) Individuals enrolled as volunteers for periods of full-time service, or, as the Director deems appropriate in accordance with regulations, for periods of part-time service of not less than 20 hours per week for not less than 26 consecutive weeks, under title I of this Act: shall, with respect to such service or training, (1) for the purposes of subchapter III of chapter 73 of title 5, United States Code, be deemed persons employed in the executive branch of the Federal Government, (2) for the purposes of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) and title II of the Social Security Act (42 U.S.C. 401 et seq.), be deemed employees of the United States, and any service performed by an individual as a volunteer (including training) shall be deemed to be performed in the employ of the United States, (3) for the purposes of the Federal Tort Claims provisions of title 28, United States Code, be deemed employees of the United States, (4) for the purposes of subchapter 1 of chapter 81 of title 5, United States Code (relative to compensation to Federal employees for work injuries), shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply except as follows: (A) in computing compensation benefits for disability or death, the annual rate of pay of a volunteer enrolled for a period of full-time service under such title I shall be deemed to be that received under the entrance salary for an employee at grade GS-5 of the General Schedule under section 5332 of title 5, United States Code, and the annual rate of pay of a volunteer enrolled for a period or part-time service under such title I shall be deemed to be such entry salary or an appropriate portion thereof as determined by the Director, and subsections (a) and (b) of section 8113 of title 5, United States Code, shall apply, and (B) compensation for disability shall not begin to accrue until the day following the date on which the injured volunteer is terminated, and (5) be deemed employees of the United States for the purposes of section 5584 of title 5, United States Code (and stipends and allowances paid under this Act shall be considered as pay for such purposes).

(c) Any period of service of a volunteer enrolled in a program for a period of service of at least one year under part A of title I of this Act, and any period of full-time service of a volunteer enrolled in a program for a period of service of at least one year under part B or C of title I of this Act, shall be credited in connection with subsequent employment in the same manner as a like period of civilian employment by the United States Government—

(1) for the purposes of any Act establishing a retirement system for civilian employees of any United States Government agency; and

(2) except as otherwise determined by the President, for the purposes of determining seniority, reduction in force, and layoff rights, leave entitlement, and other rights and privileges based upon length of service under the laws administered by the Office of Personnel Management, the Foreign Service Act of 1980, and every other Act establishing or governing terms and conditions of service of civilian employees of the United States Government: *Provided*, That service of a volunteer shall not be credited toward completion of any probationary or trial

period or completion of any service requirement for career appointment.

(d) Volunteers serving in programs for periods of service of at least one year under part A of title I of this Act, and volunteers serving for such periods under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d), including those whose service was completed under such Act, who the Director determines, in accordance with regulations the Director shall prescribe, have successfully completed their periods of service, shall be eligible for appointment in the competitive service in the same manner as Peace Corps volunteers as prescribed in Executive Order Number 11103 (April 10, 1963).

(e) Notwithstanding any other provision of law, all references in any other law to persons serving as volunteers under title VIII of the Economic Opportunity Act of 1964, as amended, shall be deemed to be references to persons serving as full-time volunteers in a program of at least one year's duration under part A, B, or C of title I of this Act.

(f)(1) The remedy—

(A) against the United States provided by sections 1346(b) and 2672 of title 28, United States Code, or

(B) through proceedings for compensation or other benefits from the United States as provided by any other law, where the availability of such benefits precludes a remedy under section 1346(b) or 2672 of such title 28,

for damages for personal injury, including death, allegedly arising from malpractice or negligence of a physician, dentist, podiatrist, optometrist, nurse, physician assistant, expanded-function dental auxiliary, pharmacist, or paramedical (for example, medical and dental technicians, nursing assistants, and therapists) or other supporting personnel in furnishing medical care or treatment while in the exercise of such person's duties as a volunteer enrolled under title I of this Act shall be exclusive of any other civil action or proceeding by reason of the same subject matter against such person (or such person's estate) whose action or omission gave rise to such claim.

(2) The Attorney General of the United States shall defend any civil action or proceeding brought in any court against any person referred to in paragraph (1) of this subsection (or such person's estate) for any such damage or injury. Any such person against whom such civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such person or an attested true copy thereof to such person's immediate supervisor or to whomever is designated by the Director to receive such papers, and such person shall promptly furnish copies of the pleading and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought and to the Attorney General.

(3) Upon a certification by the Attorney General that the defendant was acting in the scope of such person's volunteer assignment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States of the district and

division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of title 28, United States Code, and all references thereto. After removal the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States. Should a district court of the United States determine on a hearing on a motion to remand held before a trial on the merits that the volunteer whose act or omission gave rise to the suit was not acting within the scope of such person's volunteer assignment, the case shall be remanded to the State court.

(4) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, United States Code, and with the same effect.

(42 U.S.C. 5055)

EVALUATION

SEC. 416. (a) The Director shall measure and evaluate the impact of all programs authorized by this Act (including the VISTA Literacy Corps which shall be evaluated as a separate program at least once every 3 years), their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, and their structure and mechanisms for delivery of services. Each program shall be evaluated at least once every three years. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated. Such evaluation shall also measure and evaluate compliance with the equitable distribution requirement of section 414 of this Act.

(b) The Director shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this Act. Reports submitted pursuant to section 407 shall describe the actions taken as a result of evaluations carried out under this section.

(c) In carrying out evaluations under this title, the Director shall whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of such programs and projects.

(d) The Director shall publish summaries of the results of evaluations of program and project impact and effectiveness no later than sixty days after the completion thereof.

(e) The Director shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

(f) Not later than December 31, 1988, the Director shall—

(1) evaluate the impact of Corporation programs carried out under title II that relate to services that assist families caring for frail and disabled adult family members and shall include in such evaluation information on—

(A) the range and extent of service needs of, and the services provided to, family caregivers assisted by volunteers;

(B) the characteristics of volunteers and the skills, training, and supervision necessary to provide various types of volunteer assistance to family caregivers;

(C) administrative costs, including recruitment, training, and supervision costs, associated with volunteer assistance to family caregivers; and

(D) such other issues as may be relevant to provide services to assist family caregivers;

(2) evaluate the impact that volunteers who participate in programs under parts B and C of title II without receiving a stipend have on such programs and shall include in such evaluation—

(A) information on administrative costs associated with such volunteers;

(B) a comparison of the quality of services provided by such volunteers and the quality of services provided by volunteers who receive a stipend under such parts, including the rate of absenteeism and turnover; and

(C) a review of the effect that participation by volunteers who do not receive such stipend have on the administration of such programs; and

(3) submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report summarizing in detail the results of the evaluations made under paragraphs (1) and (2).

(g) The Director is authorized to use such sums as are required, but not to exceed 1 per centum of the funds appropriated under this Act, to conduct program and project evaluations (directly, or by grants or contracts) as required by this Act. In the case of allotments from such an appropriation, the amount available for such allotments (and the amount deemed appropriate therefor) shall be reduced accordingly.

(42 U.S.C. 5056)

SEC. 417. NONDISCRIMINATION PROVISIONS.

(a) IN GENERAL.—

(1) BASIS.—An individual with responsibility for the operation of a program that receives assistance under this Act shall not discriminate against a participant in, or member of the staff of, such program on the basis of race, color, national origin, sex, age, or political affiliation of such participant or member, or on the basis of disability, if the participant or member is a qualified individual with a disability.

(2) DEFINITION.—As used in paragraph (1), the term “qualified individual with a disability” has the meaning given the term in section 101(8) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111(8)).

(b) FEDERAL FINANCIAL ASSISTANCE.—Any assistance provided under this Act shall constitute Federal financial assistance for purposes of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

(c) RELIGIOUS DISCRIMINATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), an individual with responsibility for the operation of a program that receives assistance under this Act shall not discriminate on the basis of religion against a participant in such program or a member of the staff of such program who is paid with funds received under this Act.

(2) EXCEPTION.—Paragraph (1) shall not apply to the employment, with assistance provided under this Act, of any member of the staff, of a program that receives assistance under this Act, who was employed with the organization operating the program on the date the grant under this Act was awarded.

(d) RULES AND REGULATIONS.—The Director shall promulgate rules and regulations to provide for the enforcement of this section that shall include provisions for summary suspension of assistance for not more than 30 days, on an emergency basis, until notice and an opportunity to be heard can be provided.

(42 U.S.C. 5057)

ELIGIBILITY FOR OTHER BENEFITS

SEC. 418. Notwithstanding any other provision of law, no payment for supportive services or reimbursement of out-of-pocket expenses made to persons serving pursuant to title II of this Act shall be subject to any tax or charge or be treated as wages or compensation for the purposes of unemployment, temporary disability, retirement, public assistance, workers' compensation or similar benefit payments, or minimum wage laws. This section shall become effective with respect to all payments made after the effective date of this Act.

(42 U.S.C. 5058)

LEGAL EXPENSES

SEC. 419. Notwithstanding any other provision of law and pursuant to regulations which the Director shall prescribe, counsel may be employed and counsel fees, court costs, bail, and other expenses incidental to the defense of volunteers may be paid in judicial or administrative proceedings to which full-time volunteers (or part-time volunteers when such proceeding arises directly out of the performance of activities pursuant to this Act), serving under this Act have been made parties.

(42 U.S.C. 5059)

[Sec. 420 Repealed]¹

DEFINITIONS

SEC. 421. For the purposes of this Act—

(1) the term "Director" means the Chief Executive Officer of the Corporation for National and Community Service appointed under section 193 of the National and Community Service Act of 1990;

(2) the terms "United States" and "States" mean the several States, the District of Columbia, the Virgin Islands, Puer-

¹ Section 420 was repealed by section 368 of Public Law 103-82.

to Rico, Guam, the American Samoa and, for the purposes of title II of this Act, the Trust Territory of the Pacific Islands;

(3) the term “nonprofit” as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

(4) the term “poor” or “low-income” persons, individuals, or volunteers means such individuals whose incomes fall at or below the poverty line as set forth in section 625 of the Economic Opportunity Act of 1964, as amended by Public Law 92-424 (42 U.S.C. 2971d): *Provided*, That in determining who is “poor” or “low-income”, the Director shall take into consideration existing poverty guidelines as appropriate to local situations;

(5) the terms “public agencies or organizations” and “Federal, State, or local agencies” shall include any Indian tribe, band, nation, or other organized group or community (including any Alaskan native village or regional village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act) which is recognized by the United States or the State in which it resides as eligible for special programs and services provided to Indians because of their status as Indians;

(6) the term “poverty line for a single individual” means such poverty line as established by the Director of the Office of Management and Budget in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2));

(7) the term “boarder baby” means an infant described in section 103 of the Abandoned Infants Assistance Act of 1988 (Public Law 100-505; 42 U.S.C. 670 note);

(8) the term “Corporation” means the Corporation for National and Community Service established under section 191 of the National and Community Service Act of 1990;

(9) the term “foster grandparent” means a volunteer in the Foster Grandparent Program;

(10) the term “Foster Grandparent Program” means the program established under part B of title II;

(11) except as provided in section 417, the term “individual with a disability” has the meaning given the term in section 7(20)(B) of the Rehabilitation Act of 1973;

(12) the term “Inspector General” means the Inspector General of the Corporation;

(13) the term “national senior volunteer” means a volunteer in the National Senior Volunteer Corps;

(14) the term “National Senior Volunteer Corps” means the programs established under parts A, B, C, and E of title II;

(15) the term “Retired and Senior Volunteer Program” means the program established under part A of title II;

(16) the term “retired or senior volunteer” means a volunteer in the Retired and Senior Volunteer Program;

(17) the term "senior companion" means a volunteer in the Senior Companion Program;

(18) the term "Senior Companion Program" means the program established under part C of title II;

(19) the terms "VISTA" and "Volunteers in Service to America" mean the program established under part A of title I; and

(20) the term "VISTA volunteer" means a volunteer in VISTA.

(42 U.S.C. 5061)

AUDIT

SEC. 422. (a) Each recipient of Federal grants, subgrants, contracts, subcontracts, or loans entered into under this Act other than by formal advertising, and which are otherwise authorized by this Act, shall keep such records as the Director or the Inspector General shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Director, the Inspector General, and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purpose of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Director, the Inspector General, or the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants, or loans referred to in subsection (a).

(42 U.S.C. 5062)

REDUCTION OF PAPERWORK

SEC. 423. In order to reduce unnecessary, duplicative, or disruptive demands for information, the Director, in consultation with other appropriate agencies and organizations, shall continually review and evaluate all requests for information made under this Act and take such action as may be necessary to reduce the paper work required under this Act. The Director shall request only such information as the Director deems essential to carry out the purposes and provisions of this Act.

(42 U.S.C. 5063)

REVIEW OF PROJECT RENEWALS

SEC. 424. If the executive authority of any State of local government submits to the director, not later than 30 days before the expiration of any contract or grant to carry out any project under this Act, a statement which objects to the renewal of such contract or grant, then the Director shall (1) review such statement and take it into account in determining whether to renew such contract or grant; and (2) submit to such executive authority a written statement of reasons regarding the Director's determination with

respect to such renewal and specifically with respect to any objection so submitted.

(42 U.S.C. 5064)

SEC. 425. PROTECTION AGAINST IMPROPER USE.

Whoever falsely—

(1) advertises or represents; or
(2) publishes or displays any sign, symbol, or advertisement, reasonably calculated to convey the impression, that an entity is affiliated with, funded by, or operating under the authority of the Corporation, VISTA, or any of the programs of the National Senior Volunteer Corps may be enjoined under an action filed by the Attorney General, on a complaint by the Director.

(42 U.S.C. 5065)

TITLE V—AUTHORIZATION OF APPROPRIATIONS

SEC. 501. NATIONAL VOLUNTEER ANTIPOVERTY PROGRAMS.

(a) AUTHORIZATIONS.—

(1) VOLUNTEERS IN SERVICE TO AMERICA.—There are authorized to be appropriated to carry out parts A and B of title I, excluding section 109, \$56,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

(2) LITERACY ACTIVITIES.—There are authorized to be appropriated to carry out section 109, \$5,600,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

(3) SPECIAL VOLUNTEER PROGRAMS.—There are authorized to be appropriated to carry out part C of title I, excluding section 125, such sums as may be necessary for each of the fiscal years 1994 through 1996.

(4) LITERACY CHALLENGE GRANTS.—There are authorized to be appropriated to carry out section 125, such sums as may be necessary for each of the fiscal years 1994 through 1996.

(5) SPECIFICATION OF BUDGET FUNCTION.—The authorizations of appropriations contained in this subsection shall be considered to be a component of budget function 500 as used by the Office of Management and Budget to cover education, training, employment, and social services, and, as such, shall be considered to be related to the programs of the Departments of Labor, Health and Human Services, and Education for budgetary purposes.

(b) SUBSISTENCE.—The minimum level of an allowance for subsistence required under section 105(b)(2), to be provided to each volunteer under title I, may not be reduced or limited in order to provide for an increase in the number of volunteer service years under part A of title I.

(c) LIMITATION.—No part of the funds appropriated to carry out part A of title I may be used to provide volunteers or assistance to any program or project authorized under part B or C of title I, or under title II, unless the program or project meets the anti-poverty criteria of part A of title I.

(d) AVAILABILITY.—Amounts appropriated for part A of title I shall remain available for obligation until the end of the fiscal year following the fiscal year for which the amounts were appropriated.

(e) VOLUNTEER SERVICE REQUIREMENT.—

(1) VOLUNTEER SERVICE YEARS.—Of the amounts appropriated under this section for parts A, B, and C of title I, including section 124, there shall first be available for part A of title I, including sections 104(e) and 109, an amount not less than the amount necessary to provide 3,700 volunteer service years in fiscal year 1994, 4,000 volunteer service years in fiscal year 1995, and 4,500 volunteer service years in fiscal year 1996.

(2) PLAN.—If the Director determines that funds appropriated to carry out part A, B, or C of title I are insufficient to provide for the years of volunteer service required by paragraph (1), the Director shall submit a plan to the relevant authorizing and appropriations committees of Congress that will detail what is necessary to fully meet this requirement.

(42 U.S.C. 5081)

SEC. 502. NATIONAL SENIOR VOLUNTEER CORPS.

(a) RETIRED AND SENIOR VOLUNTEER PROGRAM.—There are authorized to be appropriated to carry out part A of title II, \$45,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

(b) FOSTER GRANDPARENT PROGRAM.—There are authorized to be appropriated to carry out part B of title II, \$85,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

(c) SENIOR COMPANION PROGRAM.—There are authorized to be appropriated to carry out part C of title II, \$40,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 and 1996.

(d) DEMONSTRATION PROGRAMS.—There are authorized to be appropriated to carry out part E of title II, such sums as may be necessary for each of the fiscal years 1994 through 1996.

(42 U.S.C. 5082)

[Sec. 503 Repealed]¹

SEC. 504. ADMINISTRATION AND COORDINATION.

(a) IN GENERAL.—For each of the fiscal years 1994 through 1996, there are authorized to be appropriated for the administration of this Act as provided for in title IV, 18 percent of the total amount appropriated under sections 501 and 502 with respect to such year.

(b) EVALUATION.—For each of the fiscal years 1994 through 1996, the Director is authorized to expend not less than 2½ percent, and not more than 5 percent, of the amount appropriated under subsection (a), for the purposes prescribed in section 416.

(42 U.S.C. 5084)

AVAILABILITY OF APPROPRIATIONS

SEC. 505. Notwithstanding any other provision of law, unless enacted in express and specific limitation of the provisions of this section, funds appropriated for any fiscal year to carry out any program under this Act or any predecessor authority shall remain

¹ Section 503 was repealed by section 102(b) of P.L. 95-510.]

available, in accordance with the provisions of this Act, for obligation and expenditure until expended.

(42 U.S.C. 5085)

TITLE VI—AMENDMENTS TO OTHER LAWS AND REPEALERS

SUPERSEDEENCE OF REORGANIZATION PLAN NUMBER 1 OF JULY 1, 1971

SEC. 601. (a) Sections 1, 2(a), 3, and 4 of the Reorganization Plan Number 1 of 1971 (July 1, 1971) are hereby superseded.

(b) The personnel, property, records, and unexpected balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Director of the ACTION Agency by sections 2(a) and 4 of such reorganization plan are hereby transferred to the ACTION Agency established by section 401. All grants, contracts, and other agreements awarded or entered into under the authority of such reorganization plan will be recognized under comparable provisions of this Act so that there is no disruption of ongoing activities for which there is continuing authority.

(c) All official actions taken by the Director of the ACTION Agency, the designee of the Director, or any other person under the authority of such reorganization plan which are in force on the effective date of this Act and for which there is continuing authority under the provisions of this Act, and the length of the period of service of volunteers serving or under going training under title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d) on the effective date of this Act, shall continue in full force and effect until modified, superseded, or revoked by the Director.

(d) All references to ACTION, or the Director of ACTION in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding shall, on and after the effective date of this Act, be deemed to refer to the ACTION Agency established by section 401 and the Director thereof.

(e) No suit, action or other proceeding, and no cause of action, by or against the agency known as ACTION created by such reorganization plan, or any action by any officer thereof acting in an official capacity, shall abate by reason of enactment of this Act.

(f) Persons appointed by the President, by and with the advice and consent of the Senate, to positions requiring such advice and consent under such reorganization plan may continue to serve in the same capacity in the ACTION Agency without the necessity of an additional appointment by the President or further such advice and consent by the Senate.

CREDITABLE SERVICE FOR CIVIL SERVICE RETIREMENT

SEC. 602. Section 8332(b)(7) of title 5, United States Code (relating to creditable service to civil service retirement), is amended by inserting a comma and “or a period of service of a full-time volunteer enrolled in a program of at least one year’s duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973 (—U.S.C.—)” after “Economic Opportunity Act of 1964”.

REPEAL OF TITLE VIII OF THE ECONOMIC OPPORTUNITY ACT

SEC. 603. Title VIII of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2991–2994d), is hereby repealed.

REPEAL OF TITLE VI OF THE OLDER AMERICANS ACT

SEC. 604. (a) Title VI of the Older Americans Act of 1965, as amended (42 U.S.C. 3044–3044e), is hereby repealed.

(b) Section 908 of the Older Americans Comprehensive Services Amendments Act of 1973 (Public Law 93–29) is amended by striking out “1973,” and “1974,” and inserting in lieu thereof “1974,” and “1975,” respectively.

PART IV—MISCELLANEOUS PROGRAMS

CONGRESSIONAL AWARD ACT¹

AN ACT To establish a Congressional Award Board to administer a Congressional Award Program designed to encourage initiative and achievement among youths.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the “Congressional Award Act”.

(2 U.S.C. 801 note)

TITLE I—CONGRESSIONAL AWARD PROGRAM

ESTABLISHMENT OF THE CONGRESSIONAL AWARD BOARD

SEC. 101. There is established a board to be known as the Congressional Award Board (hereinafter in this title² referred to as the “Board”), which shall be responsible for administering the Congressional Award Program described under section 102 of this title². The Board shall not be an agency or instrumentality of the United States, and the United States is not liable for any obligation or liability incurred by the Board.

(2 U.S.C. 801)

CONGRESSIONAL AWARD PROGRAM

SEC. 102. (a) The Board shall establish and administer a program to be known as the Congressional Award Program, which shall be designed to promote initiative, achievement, and excellence among youths in the areas of public service, personal development, and physical and expedition fitness. Under the program medals shall be awarded to young people within the United States, aged fourteen through twenty-three (subject to such exceptions as the Board may prescribe), who have satisfied the standards of achievement established by the Board under subsection (b) of this section. Each medal shall consist of gold-plate over bronze, rhodium over

¹Public Law 96–114.

²Section 1(b)(3)(A) of Public Law 106–533 (114 Stat. 2553) amended this section as follows:

“(3) in section 101 (as so redesignated)—

“(A) by striking ‘Act’ and inserting ‘title’; and”

The amendment was carried out in both places the term “Act” appeared to reflect the probable intent of Congress.

bronze, or bronze and shall be struck in accordance with subsection (f).

(b) In carrying out the Congressional Award Program, the Board shall—

(1) establish the standards of achievement required for young people to qualify as recipients of the medals and establish such procedures as may be required to verify that individuals satisfy such qualifications;

(2) designate the recipients of the medals in accordance with the standards established under paragraph (1) of this subsection;

(3) delineate such roles as the Board considers to be appropriate for the Director and Regional Directors in administering the Congressional Award, and set forth in the bylaws of the Board the duties, salaries, and benefits of the Director and Regional Directors;

(4) raise funds for the operation of the program; and

(5) take such other actions as may be appropriate for the administration of the Congressional Award Program.

No salary established by the Board under paragraph (3) shall exceed \$75,000 per annum, except that for calendar years after 1986, such limit shall be increased in proportion to increases in the Consumer Price Index.

(c) The Board shall arrange for the presentation of the awards to the recipients and shall provide for participation by Members of Congress in such presentation, when appropriate. To the extent possible, recipients shall be provided with opportunities to exchange information and views with Members of Congress during the presentation of the awards.

(d) The Board may award scholarships in such amounts as the Board determines to be appropriate to any recipient of the Congressional Award Gold, Silver, and Bronze Medals.

(e) The Board shall prepare and submit an annual report to the Congress before June 1 of each year summarizing the activities of the Congressional Award Program during the previous year and making appropriate recommendations. Any minority views and recommendations of members of the Board shall be included in such reports. The annual report shall contain the following items:

(1) Specific information regarding the methods used to raise funds for the Congressional Award Program and a list of the sources of all money raised by the Board.

(2) Detailed information regarding the expenditures made by the Board, including the percentage of funds which are used for administrative expenses.

(3) A description of the programs formulated by the Director under section 5(b)(1)¹, including an explanation of the operation of such programs and a list of their sponsors.

(4) A detailed list of the administrative expenditures made by the Board, including the amounts expended for salaries, travel expenses, and reimbursed expenses for each member, officer, employee, and consultant of the Board (or of the Corporation established pursuant to section 106(g)(1)).

¹ Section 1(b)(4) of Public Law 106-533 (114 Stat. 2553) attempted to amend this paragraph by striking "section 5(g)(1)" and inserting "section 104(g)(1)". The amendment should probably have struck "section 5(b)(1)".

(5) A list of individuals given awards under the program, and their place of residence.

(6) A detailed description of the goals and objectives of the Board and the role of Congressional participation in fulfilling those goals and objectives.

(7) Plans for activities to be conducted during the remainder of the duration of the program, consistent with the functions and requirements established under this Act.

(8) Such other information as the Board may consider significant.

(f) CONGRESSIONAL AWARD PROGRAM MEDALS.—

(1) DESIGN AND STRIKING.—The Secretary of the Treasury shall strike the medals described in subsection (a) and awarded by the Board under this Act. Subject to subsection (a), the medals shall be of such quantity, design, and specifications as the Secretary of the Treasury may determine, after consultation with the Board.

(2) NATIONAL MEDALS.—The medals struck pursuant to this Act are National medals for purposes of chapter 51 of title 31, United States Code.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be charged against the Numismatic Public Enterprise Fund such amounts as may be necessary to pay for the cost of the medals struck pursuant to this Act.

(2 U.S.C. 802)

MEMBERSHIP OF THE BOARD

SEC. 103. (a)(1) The Board shall consist of 25 members, as follows:

(A) Six members appointed by the majority leader of the Senate, 1 of whom shall be a recipient of the Congressional Award Association.

(B) Six members appointed by the minority leader of the Senate, 1 of whom shall be a a¹ local Congressional Award program volunteer.

(C) Six members appointed by the Speaker of the House of Representatives, 1 of whom shall be a a¹ local Congressional Award program volunteer.

(D) Six members appointed by the minority leader of the House of Representatives, 1 of whom shall be a recipient of the Congressional Award Association.

(E) The Director of the Board, who shall serve as a non-voting member.

(2) In making appointments to the Board, the congressional leadership shall consider recommendations submitted by any interested party, including any member of the Board. One of the members appointed under each of subparagraphs (A) through (D) of paragraph (1) shall be a member of the Congress.

(3) Individuals appointed to the Board shall have an interest in one or more of the fields of concern of the Congressional Award Program.

¹So in original. See section 1(b)(2) of Public Law 106-63 (113 Stat. 510) prior to the amendment made by section 1(b)(2) of P.L. 106-553 redesignating section 4 as section 103.

(4) For the purpose of determining the derivation of the appointment of any person appointed to the Board under this section, if there is a change in the status of majority and minority between the parties of the House or the Senate, each person appointed under this section shall be deemed to have been appointed by the leadership position set out in subsection (a)(1) of the party of the individual who made the initial appointment of such person.

(b)(1) Appointed members of the Board shall continue to serve at the pleasure of the officer by whom they are appointed, and (unless reappointed under paragraph (3)) shall serve for a term of 4 years.

(2) For the purpose of adjusting the terms of Board members to allow for staggered appointments, the following distribution of Board terms shall take effect at the first meeting of the Board occurring after the date of the enactment of the Congressional Award Amendments of 1990:

(A) Those members who have served 10 years or more, as of the date of such meeting, shall have an appointment expiring on a date 2 years from October 1, 1990.

(B) Those members who have served for 6 months or less, as of the date of such meeting, shall have an appointment expiring on a date 6 years from October 11, 1990.

(C) All other members shall apportion the remaining Board positions between equal numbers of 2 and 4 year terms (providing that if there are an unequal number of remaining members, there shall be a predominance of 4 year terms), such apportionment to be made by lot.

(3)(A) Subject to the limitations in subparagraphs (B) and (C) of this paragraph, members of the Board may be reappointed, provided that no member may serve more than 2 consecutive terms.

(B) Members of the Board covered under paragraph (2)(A) of this section¹ shall not be eligible for reappointment to the Board. Members of the Board covered under subparagraphs (B) and (C) of paragraph (2) of this section¹ may be reappointed for 1 additional consecutive 4 year term.

(C) Members of the Board who serve as chairman of the Board shall not have the time during which they serve as chairman used in the computation of their period of service for purposes of this paragraph and paragraph (2).

(c)(1) Any vacancy in the Board shall be filled in the same manner in which the original appointment was made.

(2) Any appointed member of the Board may continue to serve after the expiration of his term until his successor has taken office.

(3) Vacancies in the membership of the Board shall not affect its power to function if there remain sufficient members to constitute a quorum under subsection (d) of this section.

(d)(1) A meeting of the Board may be convened only if—

(A) notice of the meeting was provided to each member in accordance with the bylaws; and

(B) not less than 11 members are present for the meeting at the time given in the notice.

(2) A majority of the members present when a meeting is convened shall constitute a quorum for the remainder of the meeting.

¹ So in law. See section 5 of Public Law 101-525. Probably should be "subsection".

(e) Members of the Board shall serve without pay but may be compensated for reasonable travel expenses incurred by them in the performance of their duties as members of the Board.

(f) The Board shall meet at least twice a year at the call of the Chairman (with at least one meeting in the District of Columbia) and at such other times as the Chairman may determine to be appropriate. The Chairman shall call a meeting of the Board whenever one-third of the members of the Board submit written requests for such a meeting.

(g) The Chairman and the Vice Chairman of the Board shall be elected from among the members of the Board by a majority vote of the Board for such terms as the Board determines. The Vice Chairman shall perform the duties of the Chairman in his absence.

(h)(1) The Board may appoint such committees, and assign to the committees such functions, as may be appropriate to assist the Board in carrying out its duties under this Act. Members of such committees may include the members of the Board or such other qualified individuals as the Board may select.

(2) Any employee or officer of the Federal Government may serve as a member of a committee created by the Board, but may not receive compensation for services performed for such a committee.

(i) The Board shall establish such bylaws and other regulations as may be appropriate to enable the Board to carry out its functions under this Act. Such bylaws and other regulations shall include provisions to prevent any conflict of interest, or the appearance of any conflict of interest, in the procurement and employment actions taken by the Board or by any officer or employee of the Board. Such bylaws shall include appropriate fiscal control, funds accountability, and operating principles to ensure compliance with the provisions of section 106 of this Act. A copy of such bylaws shall be transmitted to each House of Congress not later than 90 days after the date of enactment of the Congressional Award Amendments of 1985 and not later than 10 days after any subsequent amendment or revision of such bylaws.

(j) Any member of the Board who fails to attend 4 consecutive Board meetings scheduled pursuant to the bylaws of the Board and for which proper notice has been given under such bylaws, or to send a designee of such member (approved in advance by the Board under provisions of its bylaws), is, by operation of this subsection, removed, for cause, from the Board as of the date of the last meeting from which they are absent. The Chairman of the Board shall take such steps as are necessary to inform members who have 3 absences of this subsection. The Chairman shall notify the House and the Senate, including the appropriate committees of each body, whenever there is a vacancy created by the operation of this subsection.

(2 U.S.C. 803)

NATIONAL DIRECTOR

SEC. 104. (a) In the administration of the Congressional Award Program, the Board shall be assisted by a Director, who shall be the principal executive of the program and who shall supervise the affairs of the Board. The Director shall be appointed by a majority

vote of the Board, and shall serve for such term as the Board may determine. The Director may be removed by a majority vote of the Board.

(b) The Director shall, in consultation with the Board—

(1) formulate programs to carry out the policies of the Congressional Award Program;

(2) establish such divisions within the Congressional Award Program as may be appropriate; and

(3) employ and provide for the compensation of such personnel as may be necessary to carry out the Congressional Award Program, subject to such policies as the Board shall prescribe under its bylaws.

(c)(1) The Director shall, in consultation with the Board, ensure that appropriate procedures for fiscal control and fund accounting are established for the financial operations of the Congressional Award Program, and that such operations are administered by personnel with expertise in accounting and financial management. Such personnel may be retained under contract. In carrying out this paragraph, the Director shall ensure that the liabilities of the Board do not, for any calendar year, exceed the assets of the Board.

(2)(A) The Comptroller General of the United States shall determine, for calendar years 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, and 2004 whether the Director has substantially complied with paragraph (1). The findings made by the Comptroller General under the preceding sentence shall be included in the first report submitted under section 8(b) after December 31, 1994.

(B) If the Director fails to substantially comply with paragraph (1), the Board shall take such actions as may be necessary to prepare, pursuant to section 9, for the orderly cessation of the activities of the Board.

(2 U.S.C. 804)

REGIONAL AWARD DIRECTORS

SEC. 105. Regional award directors may be appointed by the Board, upon recommendation of the Director, for any State or other appropriate geographic area of the United States. The Director shall make such recommendations with respect to a State or geographic area only after soliciting recommendations regarding such appointments from public and private youth organizations within such State or geographic area.

(2 U.S.C. 805)

POWERS, FUNCTIONS, AND LIMITATIONS

SEC. 106. (a) Subject to such limitations as may be provided for under this section, the Board may take such actions and make such expenditures as may be necessary to carry out the Congressional Award Program, except that—

(1) the Board shall carry out its functions and make expenditures with only such resources as are available to the Board from sources other than the Federal Government; and

(2) the Board shall not take any actions which would disqualify the Board from treatment (for tax purposes) as an orga-

nization described in section 501(c)(3) of the Internal Revenue Code of 1954.

(b)(1) The Board shall establish such functions and procedures as may be necessary to carry out the provisions of this Act.

(2) The functions established by the Board under paragraph (1) shall include—

(A) communication with local Congressional Award Councils concerning the Congressional Award Program;

(B) provision, upon the request of any local Congressional Award Council, of such technical assistance as may be necessary to assist such council with its responsibilities, including the provision of medals, the preparation and provision of applications, guidance on disposition of applications, arrangements with respect to local award ceremonies, and other responsibilities of such council;

(C) conduct of outreach activities to establish new local Congressional Award Councils, particularly in inner-city areas and rural areas;

(D) in addition to those activities authorized under subparagraph (C), conduct of outreach activities to encourage, where appropriate, the establishment and development of Statewide Congressional Award Councils;

(E) fundraising;

(F) conduct of an annual Gold Medal Awards ceremony in the District of Columbia;

(G) consideration of implementation of the provisions of this Act relating to scholarships; and

(H) carrying out of duties relating to management of the national office of the Congressional Award Program, including supervision of office personnel and of the office budget.

(c)(1) In carrying out its functions with respect to Statewide Congressional Award Councils (hereinafter in this subsection referred to as Statewide Councils) under subsection (b), the Board shall develop guidelines, criteria, and standards for the formation of Statewide Councils. In order to create a Statewide Council, Members of Congress and Senators from each respective State are encouraged to work jointly with the Board.

(2) The establishment of Statewide Councils is intended to—

(A) facilitate expanded public participation and involvement in the program; and

(B) promote greater opportunities for involvement by members of the State congressional delegation.

(3) The duties and responsibilities of each Statewide Council established pursuant to this section shall include, but not be limited to, the following:

(A) promoting State and local awareness of the Congressional Award Program;

(B) review of participant records and activities;

(C) review and verification of information on, and recommendation of, candidates to the national board for approval;

(D) planning and organization of bronze and silver award ceremonies;

(E) assisting gold award recipients with travel to and from the national gold award ceremony; and

(F) designation of a Statewide coordinator to serve as a liaison between the State and local boards and the national board.

(4) Each Statewide Council established pursuant to this section is authorized to receive public monetary and in-kind contributions, which may be made available to local boards to supplement or defray operating expenses. The Board shall adopt appropriate financial management methods in order to ensure the proper accounting of these funds.

(5) Each Statewide Council established pursuant to this section shall comply with the standard charter requirements of the national board of directors.

(d) The Board may enter into and perform such contracts as may be appropriate to carry out its business, but the Board may not enter into any contract which would obligate the Board to expend an amount greater than the amount available to the Board for the purpose of such contract during the fiscal year in which the expenditure is made.

(e)(1) Subject to the provisions of paragraph (2), the Board may seek and accept funds and other resources to carry out its activities. The Board may not accept any funds or other resources which are—

(A) donated with a restriction on their use unless such restriction merely provides that such funds or other resources be used in furtherance of the Congressional Award Program or a specific regional or local program; and

(B) donated subject to the condition that the identity of the donor of the funds or resources shall remain anonymous.

The Board may permit donors to use the name of the Board or the name "Congressional Award Program" in advertising.

(2) Except as otherwise provided in this Act, the Board may not receive any Federal funds or resources. The Board may benefit from in-kind and indirect resources provided by Offices of Members of Congress or the Congress. Further, the Board is not prohibited from receiving indirect benefits from efforts or activities undertaken in collaboration with entities which receive Federal funds or resources.

(f) The Board may accept and utilize the services of voluntary, uncompensated personnel.

(g) The Board may lease (or otherwise hold), acquire, or dispose of real or personal property necessary for, or relating to, the duties of the Board.

(h) The Board shall have no power—

(1) to issue bonds, notes, debentures, or other similar obligations creating long-term indebtedness;

(2) to issue any share of stock or to declare or pay any dividends; or

(3) to provide for any part of the income or assets of the Board to inure to the benefit of any director, officer, or employee of the Board except as reasonable compensation for services or reimbursement for expenses.

(i)(1) The Board shall provide for the establishment of a private nonprofit corporation for the sole purpose of assisting the Board to carry out the Congressional Award Program, and shall delegate to the corporation such duties as it considers appropriate.

(2) The articles of incorporation of the corporation established under this subsection shall provide that—

(A) the members of the Board of Directors of the corporation shall be the members of the Board, and the Director of the corporation shall be the Director of the Board; and

(B) the extent of the authority of the corporation shall be the same as that of the Board.

(3) No director, officer, or employee of any corporation established under this subsection may receive compensation, travel expenses, or benefits from both the corporation and the Board.

(2 U.S.C. 806)

AUDITS AND EVALUATION

SEC. 107. (a) The financial records of the Board and of any corporation established under section 7(i) shall be audited annually by the Comptroller General of the United States (hereinafter in this section referred to as the “Comptroller General”). The Comptroller General, or any duly authorized representative of the Comptroller General, shall have access for the purpose of audit to any books, documents, papers, and records of the Board or such corporation (or any agent of the Board or such corporation) which, in the opinion of the Comptroller General, may be pertinent to the Congressional Award Program.

(b) The Comptroller General shall submit to appropriate officers, committees, and subcommittees of the Congress, by May 15th of each calendar year, a report on the results of the audit of the financial records and on any such additional areas as the Comptroller General determines deserve or require evaluation.

(2 U.S.C. 807)

TERMINATION

SEC. 108. The Board shall terminate October 1, 2004.

(2 U.S.C. 808)

TITLE II—CONGRESSIONAL RECOGNITION FOR EXCELLENCE IN ARTS EDUCATION

SEC. 201. SHORT TITLE.

This title may be cited as the “Congressional Recognition for Excellence in Arts Education Act”.

(2 U.S.C. 801 note)

SEC. 202. FINDINGS.

Congress makes the following findings:

(1) Arts literacy is a fundamental purpose of schooling for all students.

(2) Arts education stimulates, develops, and refines many cognitive and creative skills, critical thinking and nimbleness in judgment, creativity and imagination, cooperative decision-making, leadership, high-level literacy and communication, and the capacity for problem-posing and problem-solving.

(3) Arts education contributes significantly to the creation of flexible, adaptable, and knowledgeable workers who will be needed in the 21st century economy.

(4) Arts education improves teaching and learning.

(5) Where parents and families, artists, arts organizations, businesses, local civic and cultural leaders, and institutions are actively engaged in instructional programs, arts education is more successful.

(6) Effective teachers of the arts should be encouraged to continue to learn and grow in mastery of their art form as well as in their teaching competence.

(7) The 1999 study, entitled “Gaining the Arts Advantage: Lessons from School Districts that Value Arts Education”, found that the literacy, education, programs, learning and growth described in paragraphs (1) through (6) contribute to successful districtwide arts education.

(8) Despite all of the literacy, education, programs, learning and growth findings described in paragraphs (1) through (6), the 1997 National Assessment of Educational Progress reported that students lack sufficient opportunity for participatory learning in the arts.

(9) The Arts Education Partnership, a coalition of national and State education, arts, business, and civic groups, is an excellent example of one organization that has demonstrated its effectiveness in addressing the purposes described in section 205(a) and the capacity and credibility to administer arts education programs of national significance.

(2 U.S.C. 811)

SEC. 203. DEFINITIONS.

In this title:

(1) ARTS EDUCATION PARTNERSHIP.—The term “Arts Education Partnership” means a private, nonprofit coalition of education, arts, business, philanthropic, and government organizations that demonstrates and promotes the essential role of arts education in enabling all students to succeed in school, life, and work, and was formed in 1995.

(2) BOARD.—The term “Board” means the Congressional Recognition for Excellence in Arts Education Awards Board established under section 204.

(3) ELEMENTARY SCHOOL; SECONDARY SCHOOL.—The terms “elementary school” and “secondary school” mean—

(A) a public or private elementary school or secondary school (as the case may be), as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801); or

(B) a bureau funded school as defined in section 1146 of the Education Amendments of 1978 (25 U.S.C. 2026).

(4) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

(2 U.S.C. 812)

SEC. 204. ESTABLISHMENT OF BOARD.

There is established within the legislative branch of the Federal Government a Congressional Recognition for Excellence in Arts Education Awards Board. The Board shall be responsible for administering the awards program described in section 205.

(2 U.S.C. 813)

SEC. 205. BOARD DUTIES.

(a) AWARDS PROGRAM ESTABLISHED.—The Board shall establish and administer an awards program to be known as the “Congressional Recognition for Excellence in Arts Education Awards Program”. The purpose of the program shall be to—

- (1) celebrate the positive impact and public benefits of the arts;
- (2) encourage all elementary schools and secondary schools to integrate the arts into the school curriculum;
- (3) spotlight the most compelling evidence of the relationship between the arts and student learning;
- (4) demonstrate how community involvement in the creation and implementation of arts policies enriches the schools;
- (5) recognize school administrators and faculty who provide quality arts education to students;
- (6) acknowledge schools that provide professional development opportunities for their teachers;
- (7) create opportunities for students to experience the relationship between early participation in the arts and developing the life skills necessary for future personal and professional success;
- (8) increase, encourage, and ensure comprehensive, sequential arts learning for all students; and
- (9) expand student access to arts education in schools in every community.

(b) DUTIES.—

(1) SCHOOL AWARDS.—The Board shall—

(A) make annual awards to elementary schools and secondary schools in the States in accordance with criteria established under subparagraph (B), which awards—

(i) shall be of such design and materials as the Board may determine, including a well-designed certificate or a work of art, designed for the awards event by an appropriate artist; and

(ii) shall be reflective of the dignity of Congress;

(B) establish criteria required for a school to receive the award, and establish such procedures as may be necessary to verify that the school meets the criteria, which criteria shall include criteria requiring—

(i) that the school—

(I) provides comprehensive, sequential arts learning; and

(II) integrates the arts throughout the curriculum in subjects other than the arts; and

(ii) 3 of the following:

(I) that the community serving the school is actively involved in shaping and implementing the arts policies and programs of the school;

(II) that the school principal supports the policy of arts education for all students;

(III) that arts teachers in the school are encouraged to learn and grow in mastery of their art form as well as in their teaching competence;

(IV) that the school actively encourages the use of arts assessment techniques for improving student, teacher, and administrative performance; and

(V) that school leaders engage the total school community in arts activities that create a climate of support for arts education; and

(C) include, in the procedures necessary for verification that a school meets the criteria described in subparagraph (B), written evidence of the specific criteria, and supporting documentation, that includes—

(i) 3 letters of support for the school from community members, which may include a letter from—

(I) the school's Parent Teacher Association (PTA);

(II) community leaders, such as elected or appointed officials; and

(III) arts organizations or institutions in the community that partner with the school; and

(ii) the completed application for the award signed by the principal or other education leader such as a school district arts coordinator, school board member, or school superintendent;

(D) determine appropriate methods for disseminating information about the program and make application forms available to schools;

(E) delineate such roles as the Board considers to be appropriate for the Director in administering the program, and set forth in the bylaws of the Board the duties, salary, and benefits of the Director;

(F) raise funds for the operation of the program;

(G) determine, and inform Congress regarding, the national readiness for interdisciplinary individual student awards described in paragraph (2), on the basis of the framework established in the 1997 National Assessment of Educational Progress and such other criteria as the Board determines appropriate; and

(H) take such other actions as may be appropriate for the administration of the Congressional Recognition for Excellence in Arts Education Awards Program.

(2) STUDENT AWARDS.—

(A) IN GENERAL.—At such time as the Board determines appropriate, the Board—

(i) shall make annual awards to elementary school and secondary school students for individual interdisciplinary arts achievement; and

(ii) establish criteria for the making of the awards.

(B) AWARD MODEL.—The Board may use as a model for the awards the Congressional Award Program and the President's Physical Fitness Award Program.

(c) PRESENTATION.—The Board shall arrange for the presentation of awards under this section to the recipients and shall provide for participation by Members of Congress in such presentation, when appropriate.

(d) DATE OF ANNOUNCEMENT.—The Board shall determine an appropriate date or dates for announcement of the awards under this section, which date shall coincide with a National Arts Education Month or a similarly designated day, week or month, if such designation exists.

(e) REPORT.—

(1) IN GENERAL.—The Board shall prepare and submit an annual report to Congress not later than March 1 of each year summarizing the activities of the Congressional Recognition for Excellence in Arts Education Awards Program during the previous year and making appropriate recommendations for the program. Any minority views and recommendations of members of the Board shall be included in such reports.

(2) CONTENTS.—The annual report shall contain the following:

(A) Specific information regarding the methods used to raise funds for the Congressional Recognition for Excellence in Arts Education Awards Program and a list of the sources of all money raised by the Board.

(B) Detailed information regarding the expenditures made by the Board, including the percentage of funds that are used for administrative expenses.

(C) A description of the programs formulated by the Director under section 207(b)(1), including an explanation of the operation of such programs and a list of the sponsors of the programs.

(D) A detailed list of the administrative expenditures made by the Board, including the amounts expended for salaries, travel expenses, and reimbursed expenses.

(E) A list of schools given awards under the program, and the city, town, or county, and State in which the school is located.

(F) An evaluation of the state of arts education in schools, which may include anecdotal evidence of the effect of the Congressional Recognition for Excellence in Arts Education Awards Program on individual school curriculum.

(G) On the basis of the findings described in section 202 and the purposes of the Congressional Recognition for Excellence in Arts Education Awards Program described in section 205(a), a recommendation regarding the national readiness to make individual student awards under subsection (b)(2).

(2 U.S.C. 814)

SEC. 206. COMPOSITION OF BOARD; ADVISORY BOARD.

(a) COMPOSITION.—

(1) IN GENERAL.—The Board shall consist of 9 members as follows:

(A) 2 Members of the Senate appointed by the Majority Leader of the Senate.

(B) 2 Members of the Senate appointed by the Minority Leader of the Senate.

(C) 2 Members of the House of Representatives appointed by the Speaker of the House of Representatives.

(D) 2 Members of the House of Representatives appointed by the Minority Leader of the House of Representatives.

(E) The Director of the Board, who shall serve as a nonvoting member.

(2) ADVISORY BOARD.—There is established an Advisory Board to assist and advise the Board with respect to its duties under this title, that shall consist of 15 members appointed—

(A) in the case of the initial such members of the Advisory Board, by the leaders of the Senate and House of Representatives making the appointments under paragraph (1), from recommendations received from organizations and entities involved in the arts such as businesses, civic and cultural organizations, and the Arts Education Partnership steering committee; and

(B) in the case of any other such members of the Advisory Board, by the Board.

(3) SPECIAL RULE FOR ADVISORY BOARD.—In making appointments to the Advisory Board, the individuals and entity making the appointments under paragraph (2) shall consider recommendations submitted by any interested party, including any member of the Board.

(4) INTEREST.—

(A) IN GENERAL.—Members of Congress appointed to the Board shall have an interest in 1 of the purposes described in section 205(a).

(B) DIVERSITY.—The membership of the Advisory Board shall represent a balance of artistic and education professionals, including at least 1 representative who teaches in each of the following disciplines:

- (i) Music.
- (ii) Theater.
- (iii) Visual Arts.
- (iv) Dance.

(b) TERMS.—

(1) BOARD.—Members of the Board shall serve for terms of 6 years, except that of the members first appointed—

(A) 1 Member of the House of Representatives and 1 Member of the Senate shall serve for terms of 2 years;

(B) 1 Member of the House of Representatives and 1 Member of the Senate shall serve for terms of 4 years; and

(C) 2 Members of the House of Representatives and 2 Members of the Senate shall serve for terms of 6 years, as determined by lot when all such members have been appointed.

(2) ADVISORY BOARD.—Members of the Advisory Board shall serve for terms of 6 years, except that of the members first appointed, 3 shall serve for terms of 2 years, 4 shall serve for terms of 4 years, and 8 shall serve for terms of 6 years, as determined by lot when all such members have been appointed.

(c) VACANCY.—

(1) IN GENERAL.—Any vacancy in the membership of the Board or Advisory Board shall be filled in the same manner in which the original appointment was made.

(2) TERM.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of such term.

(3) EXTENSION.—Any appointed member of the Board or Advisory Board may continue to serve after the expiration of the member's term until the member's successor has taken office.

(4) SPECIAL RULE.—Vacancies in the membership of the Board shall not affect the Board's power to function if there remain sufficient members of the Board to constitute a quorum under subsection (d).

(d) QUORUM.—A majority of the members of the Board shall constitute a quorum.

(e) COMPENSATION.—Members of the Board and Advisory Board shall serve without pay but may be compensated, from amounts in the trust fund, for reasonable travel expenses incurred by the members in the performance of their duties as members of the Board.

(f) MEETINGS.—The Board shall meet annually at the call of the Chairperson and at such other times as the Chairperson may determine to be appropriate. The Chairperson shall call a meeting of the Board whenever $\frac{1}{3}$ of the members of the Board submit written requests for such a meeting.

(g) OFFICERS.—The Chairperson and the Vice Chairperson of the Board shall be elected from among the members of the Board, by a majority vote of the members of the Board, for such terms as the Board determines. The Vice Chairperson shall perform the duties of the Chairperson in the absence of the Chairperson.

(h) COMMITTEES.—

(1) IN GENERAL.—The Board may appoint such committees, and assign to the committees such functions, as may be appropriate to assist the Board in carrying out its duties under this title. Members of such committees may include the members of the Board or the Advisory Board.

(2) SPECIAL RULE.—Any employee or officer of the Federal Government may serve as a member of a committee created by the Board, but may not receive compensation for services performed for such a committee.

(i) BYLAWS AND OTHER REQUIREMENTS.—The Board shall establish such bylaws and other requirements as may be appropriate to enable the Board to carry out the Board's duties under this title.

(2 U.S.C. 815)

SEC. 207. ADMINISTRATION.

(a) IN GENERAL.—In the administration of the Congressional Recognition for Excellence in Arts Education Awards Program, the Board shall be assisted by a Director, who shall be the principal executive of the program and who shall supervise the affairs of the Board. The Director shall be appointed by a majority vote of the Board.

(b) **DIRECTOR'S RESPONSIBILITIES.**—The Director shall, in consultation with the Board—

(1) formulate programs to carry out the policies of the Congressional Recognition for Excellence in Arts Education Awards Program;

(2) establish such divisions within the Congressional Recognition for Excellence in Arts Education Awards Program as may be appropriate; and

(3) employ and provide for the compensation of such personnel as may be necessary to carry out the Congressional Recognition for Excellence in Arts Education Awards Program, subject to such policies as the Board shall prescribe under its bylaws.

(c) **APPLICATION.**—Each school or student desiring an award under this title shall submit an application to the Board at such time, in such manner and accompanied by such information as the Board may require.

(2 U.S.C. 816)

SEC. 208. LIMITATIONS.

(a) **IN GENERAL.**—Subject to such limitations as may be provided for under this section, the Board may take such actions and make such expenditures as may be necessary to carry out the Congressional Recognition for Excellence in Arts Education Awards Program, except that the Board shall carry out its functions and make expenditures with only such resources as are available to the Board from the Congressional Recognition for Excellence in Arts Education Awards Trust Fund under section 211.

(b) **CONTRACTS.**—The Board may enter into such contracts as may be appropriate to carry out the business of the Board, but the Board may not enter into any contract which will obligate the Board to expend an amount greater than the amount available to the Board for the purpose of such contract during the fiscal year in which the expenditure is made.

(c) **GIFTS.**—The Board may seek and accept, from sources other than the Federal Government, funds and other resources to carry out the Board's activities. The Board may not accept any funds or other resources that are—

(1) donated with a restriction on their use unless such restriction merely provides that such funds or other resources be used in furtherance of the Congressional Recognition for Excellence in Arts Education Awards Program; or

(2) donated subject to the condition that the identity of the donor of the funds or resources shall remain anonymous.

(d) **VOLUNTEERS.**—The Board may accept and utilize the services of voluntary, uncompensated personnel.

(e) **REAL OR PERSONAL PROPERTY.**—The Board may lease (or otherwise hold), acquire, or dispose of real or personal property necessary for, or relating to, the duties of the Board.

(f) **PROHIBITIONS.**—The Board shall have no power—

(1) to issue bonds, notes, debentures, or other similar obligations creating long-term indebtedness;

(2) to issue any share of stock or to declare or pay any dividends; or

(3) to provide for any part of the income or assets of the Board to inure to the benefit of any director, officer, or employee of the Board except as reasonable compensation for services or reimbursement for expenses.

(2 U.S.C. 817)

SEC. 209. AUDITS.

The financial records of the Board may be audited by the Comptroller General of the United States at such times as the Comptroller General may determine to be appropriate. The Comptroller General, or any duly authorized representative of the Comptroller General, shall have access for the purpose of audit to any books, documents, papers, and records of the Board (or any agent of the Board) which, in the opinion of the Comptroller General, may be pertinent to the Congressional Recognition for Excellence in Arts Education Awards Program.

(2 U.S.C. 817a)

SEC. 210. TERMINATION.

The Board shall terminate 6 years after the date of enactment of this title. The Board shall set forth, in its bylaws, the procedures for dissolution to be followed by the Board.

(2 U.S.C. 817b)

SEC. 211. TRUST FUND.

(a) **ESTABLISHMENT OF FUND.**—There shall be established in the Treasury of the United States a trust fund which shall be known as the Congressional Recognition for Excellence in Arts Education Awards Trust Fund”. The fund shall be administered by the Board, and shall consist of amounts donated to the Board under section 208(c) and amounts credited to the fund under subsection (d).

(b) **INVESTMENT.**—

(1) **IN GENERAL.**—It shall be the duty of the Secretary of the Treasury to invest, at the direction of the Director of the Board, such portion of the fund that is not, in the judgment of the Director of the Board, required to meet the current needs of the fund.

(2) **AUTHORIZED INVESTMENTS.**—Such investments shall be in public debt obligations with maturities suitable to the needs of the fund, as determined by the Director of the Board. Investments in public debt obligations shall bear interest at rates determined by the Secretary of the Treasury taking into consideration the current market yield on outstanding marketable obligations of the United States of comparable maturity.

(c) **AUTHORITY TO SELL OBLIGATIONS.**—Any obligation acquired by the fund may be sold by the Secretary of the Treasury at the market price.

(d) **PROCEEDS FROM CERTAIN TRANSACTIONS CREDITED TO FUND.**—The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

(2 U.S.C. 817c)

NATIONAL ENVIRONMENTAL EDUCATION ACT ¹

AN ACT to promote environmental education, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) TITLE.—This Act may be cited as the “National Environmental Education Act”.

(20 U.S.C. 5501 note)

(b) TABLE OF CONTENTS.—

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings and policy.
- Sec. 3. Definitions.
- Sec. 4. Office of Environmental Education.
- Sec. 5. Environmental education and training program.
- Sec. 6. Environmental education grants.
- Sec. 7. Environmental internships and fellowships.
- Sec. 8. Environmental education awards.
- Sec. 9. Environmental Education Advisory Council and Task Force.
- Sec. 10. National Environmental Education and Training Foundation.
- Sec. 11. Authorization.

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress finds that—

(1) Threats to human health and environmental quality are increasingly complex, involving a wide range of conventional and toxic contaminants in the air and water and on the land.

(2) There is growing evidence of international environmental problems, such as global warming, ocean pollution, and declines in species diversity, and that these problems pose serious threats to human health and the environment on a global scale.

(3) Environmental problems represent as significant a threat to the quality of life and the economic vitality of urban areas as they do the natural balance of rural areas.

(4) Effective response to complex environmental problems requires understanding of the natural and built environment, awareness of environmental problems and their origins (including those in urban areas), and the skills to solve these problems.

(5) Development of effective solutions to environmental problems and effective implementation of environmental programs requires a well educated and trained, professional work force.

¹Public Law 101-619.

(6) Current Federal efforts to inform and educate the public concerning the natural and built environment and environmental problems are not adequate.

(7) Existing Federal support for development and training of professionals in environmental fields is not sufficient.

(8) The Federal Government, acting through the Environmental Protection Agency, should work with local education institutions, State education agencies, not-for-profit educational and environmental organizations, noncommercial educational broadcasting entities, and private sector interests to support development of curricula, special projects, and other activities, to increase understanding of the natural and built environment and to improve awareness of environmental problems.

(9) The Federal Government, acting through the coordinated efforts of its agencies and with the leadership of the Environmental Protection Agency, should work with local education institutions, State education agencies, not-for-profit educational and environmental organizations, noncommercial educational broadcasting entities, and private sector interests to develop programs to provide increased emphasis and financial resources for the purpose of attracting students into environmental engineering and assisting them in pursuing the programs to complete the advanced technical education required to provide effective problem solving capabilities for complex environmental issues.

(10) Federal natural resource agencies such as the United States Forest Service have a wide range of environmental expertise and a long history of cooperation with educational institutions and technology transfer that can assist in furthering the purposes of the Act.

(b) POLICY.—It is the policy of the United States to establish and support a program of education on the environment, for students and personnel working with students, through activities in schools, institutions of higher education, and related educational activities, and to encourage postsecondary students to pursue careers related to the environment.

(20 U.S.C. 5501)

SEC. 3. DEFINITIONS.

For the purposes of this Act, the term—

(1) “Administrator” means the Administrator of the Environmental Protection Agency;

(2) “Agency” means the United States Environmental Protection Agency;

(3) “Federal agency” or “agency of the United States” means any department, agency or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation;

(4) “Secretary” means the Secretary of the Department of Education;

(5) “local educational agency” means any education agency as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381) and shall include any tribal education agency;

(6) “not-for-profit” organization means an organization, association, or institution described in section 501(c)(3) of the Internal Revenue Code of 1986, which is exempt from taxation pursuant to the provisions of section 501(a) of such Code;

(7) “noncommercial education broadcasting entities” means any noncommercial educational broadcasting station (and/or its legal nonprofit affiliates) as defined and licensed by the Federal Communications Commission;

(8) “tribal education agency” means a school or community college which is controlled by an Indian tribe, band, or nation, including any Alaska Native village, which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians and which is not administered by the Bureau of Indian Affairs;

(9) “Federal natural resource management agencies” means the United States Forest Service, the Bureau of Land Management, the National Park Service, and the Fish and Wildlife Service;

(10) “environmental engineering” means the discipline within engineering and science concerned with the development and application of scientific and technical solutions to protecting the aquatic and atmospheric environment, including, but not limited to, all phases of water resources planning, water supply, water treatment, air pollution characterization and control, remediation of hazardous substances, environmental transport of contaminants in surface and ground water and atmosphere, and methods for assessment and control of pollution;

(11) “environmental education” and “environmental education and training” mean educational activities and training activities involving elementary, secondary, and postsecondary students, as such terms are defined in the State in which they reside, and environmental education personnel, but does not include technical training activities directed toward environmental management professionals or activities primarily directed toward the support of noneducational research and development;

(12) “Foundation” means the National Environmental Education and Training Foundation established pursuant to section 10 of this Act; and

(13) “Board of Directors” means the Board of Directors of the National Environmental Education and Training Foundation.

(20 U.S.C. 5502)

SEC. 4. OFFICE OF ENVIRONMENTAL EDUCATION.

(a) The Administrator shall establish an Office of Environmental Education within the Environmental Protection Agency.

(b) The Office of Environmental Education shall—

(1) develop and support programs and related efforts, in consultation and coordination with other Federal agencies, to improve understanding of the natural and built environment, and the relationships between humans and their environment, including the global aspects of environmental problems;

(2) support development and the widest possible dissemination of model curricula, educational materials, and training programs for elementary and secondary students and other interested groups, including senior Americans;

(3) develop and disseminate, in cooperation with other Federal agencies, not-for-profit educational and environmental organizations, State agencies, and noncommercial educational broadcasting entities, environmental education publications and audio/visual and other media materials;

(4) develop and support environmental education seminars, training programs, teleconferences, and workshops for environmental education professionals, as provided for in section 5 of this Act;

(5) manage Federal grant assistance provided to local education agencies, institutions of higher education, other not-for-profit organizations, and noncommercial education broadcasting entities, under section 6 of this Act;

(6) administer the environmental internship and fellowship programs provided for in section 7 of this Act;

(7) administer the environmental awards program provided for in section 8 of this Act;

(8) provide staff support to the Advisory Council and Task Force provided for in section 9 of this Act;

(9) assess, in coordination with other Federal agencies, the demand for professional skills and training needed to respond to current and anticipated environmental problems and cooperate with appropriate institutions, organizations, and agencies to develop training programs, curricula, and continuing education programs for teachers, school administrators, and related professionals;

(10) assure the coordination of Federal statutes and programs administered by the Agency relating to environmental education, consistent with the provisions and purposes of those programs, and work to reduce duplication or inconsistencies within these programs;

(11) work with the Department of Education, the Federal Interagency Committee on Education, and with other Federal agencies, including Federal natural resource management agencies, to assure the effective coordination of programs related to environmental education, including environmental education programs relating to national parks, national forests, and wildlife refuges;

(12) provide information on environmental education and training programs to local education agencies, State education and natural resource agencies, and others; and

(13) otherwise provide for the implementation of this Act.

(c) The Office of Environmental Education shall—

(1) be directed by a Director who shall be a member of the Senior Executive Service;

(2) include a headquarters staff of not less than six and not more than ten full-time equivalent employees; and

(3) be supported by one full-time equivalent employee in each Agency regional office.

SEC. 5. ENVIRONMENTAL EDUCATION AND TRAINING PROGRAM.

(a) There is hereby established an Environmental Education and Training Program. The purpose of the program shall be to train educational professionals in the development and delivery of environmental education and training programs and studies.

(b) The functions and activities of the program shall include, at a minimum—

(1) classroom training in environmental education and studies including environmental sciences and theory, educational methods and practices, environmental career or occupational education, and topical environmental issues and problems;

(2) demonstration of the design and conduct of environmental field studies and assessments;

(3) development of environmental education programs and curriculum, including programs and curriculum to meet the needs of diverse ethnic and cultural groups;

(4) sponsorship and management of international exchanges of teachers and other educational professionals between the United States, Canada, and Mexico involved in environmental programs and issues;

(5) maintenance or support of a library of environmental education materials, information, literature, and technologies, with electronic as well as hard copy accessibility;

(6) evaluation and dissemination of environmental education materials, training methods, and related programs;

(7) sponsorship of conferences, seminars, and related forums for the advancement and development of environmental education and training curricula and materials, including international conferences, seminars, and forums;

(8) supporting effective partnerships and networks and the use of distant learning technologies; and

(9) such other activities as the Administrator determines to be consistent with the policies of this Act. Special emphasis should be placed on developing environmental education programs, workshops, and training tools that are portable and can be broadly disseminated.

(c)(1) The Administrator shall make a grant on an annual basis to an institution of higher education or other institution which is a not-for-profit institution (or consortia of such institutions) to operate the environmental education and training program required by this section.

(2) Any institution of higher education or other institution (or consortia of such institutions) which is a not-for-profit organization and is interested in receiving a grant under this section may submit to the Administrator an application in such form and containing such information as the Administrator may require.

(3) The Administrator shall award grants under this section on the basis of—

(A) the capability to develop environmental education and training programs;

(B) the capability to deliver training to a range of participants and in a range of settings;

(C) the expertise of the staff in a range of appropriate disciplines;

(D) the relative economic effectiveness of the program in terms of the ratio of overhead costs to direct services;

(E) the capability to make effective use of existing national environmental education resources and programs;

(F) the results of any evaluation under paragraph (5) of this subsection; and

(G) such other factors as the Administrator deems appropriate.

(4) No funds made available to carry out this section shall be used for the acquisition of real property (including buildings) or the construction or substantial modification of any building.

(5) The Administrator shall establish procedures for a careful and detailed review and evaluation of the environmental education and training program to determine whether the quality of the program being operated by the grantee warrants continued support under this section.

(d)(1) Individuals eligible for participation in the program are teachers, faculty, administrators and related support staff associated with local education agencies, colleges, and universities, employees of State education, environmental protection, and natural resource departments, and employees of not-for-profit organizations involved in environmental education activities and issues.

(2) Individuals shall be selected for participation in the program based on applications which shall be in such form as the Administrator determines to be appropriate.

(3) In selecting individuals to participate in the program, the Administrator shall provide for a wide geographic representation and a mix of individuals, including minorities, working at primary, secondary, postsecondary levels, and with appropriate other agencies and departments.

(4) Individuals selected for participation in the program may be provided with a stipend to cover travel and accommodations from grant funds awarded pursuant to this section in such amounts as the Administrator determines to be appropriate.

(20 U.S.C. 5504)

SEC. 6. ENVIRONMENTAL EDUCATION GRANTS.

(a) The Administrator may enter into a cooperative agreement or contract, or provide financial assistance in the form of a grant, to support projects to design, demonstrate, or disseminate practices, methods, or techniques related to environmental education and training.

(b) Activities eligible for grant support pursuant to this section shall include, but not be limited to, environmental education and training programs for—

(1) design, demonstration, or dissemination of environmental curricula, including development of educational tools and materials;

(2) design and demonstration of field methods, practices, and techniques, including assessment of environmental and ecological conditions and analysis of environmental pollution problems;

(3) projects to understand and assess a specific environmental issue or a specific environmental problem;

(4) provision of training or related education for teachers, faculty, or related personnel in a specific geographic area or region; and

(5) design and demonstration of projects to foster international cooperation in addressing environmental issues and problems involving the United States and Canada or Mexico.

(c) In making grants pursuant to this section, the Administrator shall give priority to those proposed projects which will develop—

(1) a new or significantly improved environmental education practice, method, or technique;

(2) an environmental education practice, method, or technique which may have wide application;

(3) an environmental education practice, method, or technique which addresses a skill or scientific field identified as a priority in the report developed pursuant to section 9(d) of this Act; and

(4) an environmental education practice, method, or technique which addresses an environmental issue which, in the judgment of the Administrator, is of a high priority.

(d) The program established by this section shall include solicitations for projects, selection of suitable projects from among those proposed, supervision of such projects, evaluation of the results of projects, and dissemination of information on the effectiveness and feasibility of the practices, methods, techniques and processes. Within one year of the date of enactment of this Act, the Administrator shall publish regulations to assure satisfactory implementation of each element of the program authorized by this section.

(e) Within 90 days after the date on which amounts are first appropriated for carrying out this Act, and each year thereafter, the Administrator shall publish a solicitation for environmental education grants. The solicitation notice shall prescribe the information to be included in the proposal and other information sufficient to permit the Administrator to assess the project.

(f) Any local education agency, college or university, State education agency or environmental agency, not-for-profit organization, or noncommercial educational broadcasting entity may submit an application to the Administrator in response to the solicitations required by subsection (e) of this section.

(g) Each project under this section shall be performed by the applicant, or by a person satisfactory to the applicant and the Administrator.

(h) Federal funds for any demonstration project under this section shall not exceed 75 percent of the total cost of such project. For the purposes of this section, the non-Federal share of project costs may be provided by inkind contributions and other noncash support. In cases where the Administrator determines that a proposed project merits support and cannot be undertaken without a higher rate of Federal support, the Administrator may approve grants under this section with a matching requirement other than that specified in this subsection, including full Federal funding.

(i) Grants under this section shall not exceed \$250,000. In addition, 25 percent of all funds obligated under this section in a fiscal year shall be for grants of not more than \$5,000.

(20 U.S.C. 5505)

SEC. 7. ENVIRONMENTAL INTERNSHIPS AND FELLOWSHIPS.

(a) The Administrator shall, in consultation with the Office of Personnel Management and other appropriate Federal agencies, provide for internships by postsecondary level students and fellowships for in-service teachers with agencies of the Federal Government.

(b) The purpose of internships and fellowships pursuant to this section shall be to provide college level students and in-service teachers with an opportunity to work with professional staff of Federal agencies involved in environmental issues and thereby gain an understanding and appreciation of such issues and the skills and abilities appropriate to such professions.

(c) The Administrator shall, to the extent practicable, support not less than 250 internships each year and not less than 50 fellowships each year.

(d) The internship and fellowship programs shall be managed by the Office of Environmental Education. Interns and fellows may serve in appropriate agencies of the Federal Government including, but not limited to, the Environmental Protection Agency, the Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, the Council on Environmental Quality, Federal natural resource management agencies, the Department of Agriculture, and the National Science Foundation.

(e) Interns shall be hired on a temporary, full-time basis for not to exceed 6 months and shall be compensated appropriately. Fellows shall be hired on a temporary full-time basis for not to exceed 12 months and shall be compensated appropriately. Federal agencies hiring interns shall provide the funds necessary to support salaries and related costs.

(f)(1) Individuals eligible for participation in the internship program are students enrolled at accredited colleges or universities who have successfully completed not less than four courses or the equivalent in environmental sciences or studies, as determined by the Administrator.

(2) Individuals eligible for participation in the fellowship program are in-service teachers who are currently employed by a local education agency and have not less than 2 years experience in teaching environmental education, environmental sciences, or related courses.

(g) Individuals shall be selected for internships and fellowships based on applications which shall be in such form as the Administrator considers appropriate.

(h) In selecting individuals for internships and fellowships, the Administrator shall provide for wide geographic, cultural, and minority representation.

(20 U.S.C. 5506)

SEC. 8. ENVIRONMENTAL EDUCATION AWARDS.

(a) The Administrator shall provide for a series of national awards recognizing outstanding contributions to environmental education.

(b) In addition to such other awards as the Administrator may provide for, national environmental awards shall include—

(1) The “Theodore Roosevelt Award” to be given in recognition of an outstanding career in environmental education, teaching, or administration;

(2) The “Henry David Thoreau Award” to be given in recognition of an outstanding contribution to literature on the natural environment and environmental pollution problems;

(3) The “Rachael Carson Award” to be given in recognition of an outstanding contribution in print, film, or broadcast media to public education and information on environmental issues or problems; and

(4) The “Gifford Pinchot Award” to be given in recognition of an outstanding contribution to education and training concerning forestry and natural resource management, including multiple use and sustained yield land management.

(c) Recipients of education awards provided for in subsection (b) shall be nominated by the Environmental Education Advisory Council provided for in section 9 of this Act.

(d) The Administrator may provide for the “President’s Environmental Youth Awards” to be given to young people in grades kindergarten through twelfth for an outstanding project to promote local environmental awareness.

(e)(1) The Chairman of the Council on Environmental Quality, on behalf of the President, is authorized to develop and administer an awards program to recognize elementary and secondary education teachers and their local educational agencies who demonstrate excellence in advancing environmental education through innovative approaches. One teacher, and the local education agency employing such teacher, from each State, including the District of Columbia and the Commonwealth of Puerto Rico, are eligible to be selected for an award pursuant to this subsection.

(2) The Chairman is authorized to provide a cash award of up to \$2,500 to each teacher selected to receive an award pursuant to this section, which shall be used to further the recipient’s professional development in environmental education.

(3) The Chairman is also authorized to provide a cash award of up to \$2,500 to the local education agency employing any teacher selected to receive an award pursuant to this section, which shall be used to fund environmental educational activities and programs. Such awards may not be used for construction costs, general expenses, salaries, bonuses, or other administrative expenses.

(20 U.S.C. 5507)

SEC. 9. ENVIRONMENTAL EDUCATION ADVISORY COUNCIL AND TASK FORCE.

(a) There is hereby established a National Environmental Education Advisory Council and a Federal Task Force on Environmental Education.

(b)(1) The Advisory Council shall advise, consult with, and make recommendations to, the Administrator on matters relating to activities, functions, and policies of the Agency under this Act. With respect to such matters, the Council shall be the exclusive advisory entity for the Administrator. The Council may exchange information with other Advisory Councils established by the Administrator. The Office of Environmental Education shall provide staff support to the Council.

(2) The Advisory Council shall consist of 11 members appointed by the Administrator after consultation with the Secretary. Two members shall be appointed to represent primary and secondary education (one of whom shall be a classroom teacher); two members shall be appointed to represent colleges and universities; two members shall be appointed to represent not-for-profit organizations involved in environmental education; two members shall be appointed to represent State departments of education and natural resources; two representatives shall be appointed to represent business and industry; and one representative shall be appointed to represent senior Americans. A representative of the Secretary shall serve as an ex officio member of the Advisory Council. The conflict of interest provision at section 208(a) of title 18, United States Code, shall not apply to members' participation in particular matters which affect the financial interests of employers which they represent pursuant to this subsection.

(3) The Administrator shall provide that members of the Council represent the various geographic regions of the country, has minority representation, and that the professional backgrounds of the members include scientific, policy, and other appropriate disciplines.

(4) Each member of the Advisory Council shall hold office for a term of 3 years, except that—

(A) 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; and

(B) the terms of the members first taking office shall expire as follows: four shall expire 3 years after the date of enactment of this Act, four shall expire 2 years after such date, and three shall expire 1 year after such date, as designated by the Administrator at the time of appointment.

(5) Members of the Advisory Council appointed under this section shall, while attending meetings of the Council or otherwise engaged in business of the Council, receive compensation and allowances at a rate to be fixed by the Administrator, but not exceeding the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Council. While away from their homes or regular places of business in the performance of services for the Council, members of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5 of the United States Code.

(6) Section 14(a) of the Federal Advisory Committee Act relating to termination, shall not apply to the Advisory Council.

(c)(1) The Federal Task Force on Environmental Education shall advise, consult with and make recommendations to the Administrator on matters relating to implementation of this Act and assure the coordination of such implementation activities with related activities of other Federal agencies.

(2) Membership of the Task Force shall include the—

- (A) Department of Education,
- (B) Department of the Interior,

- (C) Department of Agriculture,
- (D) the Environmental Protection Agency,
- (E) National Oceanic and Atmospheric Administration,
- (F) Council on Environmental Quality,
- (G) Tennessee Valley Authority, and
- (H) National Science Foundation.

(3) The Environmental Protection Agency shall chair the Task Force.

(4) The Administrator may ask other Federal agencies to participate in the meetings and activities of the Task Force where the Administrator finds it appropriate in carrying out the requirements of this Act.

(d)(1) The Advisory Council shall, after providing for public review and comment, submit to the Congress, within 24 months of enactment of this Act and biennially thereafter, a report which shall—

(A) describe and assess the extent and quality of environmental education in the Nation;

(B) provide a general description of the activities conducted pursuant to this Act and related authorities over the previous 2-year period;

(C) summarize major obstacles to improving environmental education (including environmental education programs relating to national parks and wildlife refuges) and make recommendations for addressing such obstacles;

(D) identify personnel skills, education, and training needed to respond to current and anticipated environmental problems and make recommendations for actions to assure sufficient educational and training opportunities in these professions; and

(E) describe and assess the extent and quality of environmental education programs available to senior Americans and make recommendations thereon; describe the various Federal agency programs to further senior environmental education; and evaluate and make recommendations as to how such educational apparatuses could best be coordinated with nonprofit senior organizations across the Nation, and environmental education institutions and organizations now in existence.

(2) The Federal Task Force on Environmental Education shall review and comment on a draft of the report to Congress.

(20 U.S.C. 5508)

SEC. 10. THE NATIONAL ENVIRONMENTAL EDUCATION AND TRAINING FOUNDATION.

(a) ESTABLISHMENT AND PURPOSES.—

(1) ESTABLISHMENT.—(A) There is hereby established the National Environmental Education and Training Foundation. The Foundation is established in order to extend the contribution of environmental education and training to meeting critical environmental protection needs, both in this country and internationally; to facilitate the cooperation, coordination, and contribution of public and private resources to create an environmentally advanced educational system; and to foster an open and effective partnership among Federal, State, and local government, business, industry, academic institutions, commu-

nity based environmental groups, and international organizations.

(B) The Foundation is a charitable and nonprofit corporation whose income is exempt from tax, and donations to which are tax deductible to the same extent as those organizations listed pursuant to section 501(c) of the Internal Revenue Code of 1986. The Foundation is not an agency or establishment of the United States.

(2) PURPOSES.—The purposes of the Foundation are—

(A) subject to the limitation contained in the final sentence of subsection (d) herein, to encourage, accept, leverage, and administer private gifts for the benefit of, or in connection with, the environmental education and training activities and services of the United States Environmental Protection Agency;

(B) to conduct such other environmental education activities as will further the development of an environmentally conscious and responsible public, a well-trained and environmentally literate workforce, and an environmentally advanced educational system;¹

(C) to participate with foreign entities and individuals in the conduct and coordination of activities that will further opportunities for environmental education and training to address environmental issues and problems involving the United States and Canada or Mexico.

(3) PROGRAMS.—The Foundation will develop, support, and/or operate programs and projects to educate and train educational and environmental professionals, and to assist them in the development and delivery of environmental education and training programs and studies.

(b) BOARD OF DIRECTORS.—

(1) ESTABLISHMENT AND MEMBERSHIP.—(A) The Foundation shall have a governing Board of Directors (hereafter referred to in this section as “the Board”), which shall consist of 13 directors, each of whom shall be knowledgeable or experienced in the environment, education and/or training. The Board shall oversee the activities of the Foundation and shall assure that the activities of the Foundation are consistent with the environmental and education goals and policies of the Environmental Protection Agency and with the intents and purposes of this Act. The membership of the Board, to the extent practicable, shall represent diverse points of view relating to environmental education and training.

(B) The Administrator of the Environmental Protection Agency shall, pursuant to paragraph (2), appoint the Director of the Office of Environmental Education established pursuant to section 3 of this Act as an ex-officio member of the Board. Ex officio membership shall also be offered to other Federal agencies or departments with an interest and/or experience in environmental education and training.

(C) Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

¹ So in original. Probably should end with “and”.

(2) APPOINTMENT AND TERMS.—(A) Members of the Board shall be appointed by the Administrator of the Environmental Protection Agency.

(B) Within 90 days of the date of the enactment of this Act, and as appropriate thereafter, the Administrator shall publish in the Federal Register an announcement of appointments of Directors of the Board. At the same time, the Administrator shall transmit a copy of such announcement to the Education and Labor Committee and the Committee on Energy and Commerce of the House of Representatives and the Committee on Environment and Public Works of the United States Senate. Such appointments shall become final and effective 90 days after publication in the Federal Register.

(C) The directors shall be appointed for terms of 4 years, except that the Administrator, in making the initial appointments to the Board, shall appoint 5 directors to a term of 2 years, 4 directors to a term of 3 years, and 4 directors to a term of 4 years. The Administrator shall appoint an individual to serve as a director in the event of a vacancy on the Board within 60 days of said vacancy in the manner in which the original appointment was made. No individual may serve more than 2 consecutive terms as a director.

(3) CHAIR.—The Chair shall be elected by the Board from its members for a 2-year term.

(4) QUORUM.—A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(5) MEETINGS.—The Board shall meet at the call of the Chair at least twice a year. If a Director misses three consecutive regularly scheduled meetings, that individual may be removed from the Board and that vacancy filled in accordance with this subsection.

(6) REIMBURSEMENT OF EXPENSES.—Members of the Board shall serve without pay, but may be reimbursed for the actual and necessary traveling and subsistence expenses incurred by them in the performance of the duties of the Foundation.

(7) GENERAL POWERS.—(A) The Board may complete the organization of the Foundation by—

(i) appointing officers and employees;

(ii) adopting a constitution and bylaws consistent with the purposes of the Foundation and the provisions of this section; and

(iii) undertaking such other acts as may be necessary to carry out the provisions of this section.

(B) The following limitations apply with respect to the appointment of officers and employees of the Foundation:

(i) Officers and employees may not be appointed until the Foundation has sufficient funds to pay for their service. Officers and employees of the Foundation shall be appointed without regard to the provisions of title 5, of the United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may re-

ceive pay in excess of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

(ii) The first officer or employee appointed by the Board shall be the Executive Director of the Foundation who—

(I) shall serve, at the direction of the Board, as the Secretary of the Board and the Foundation's chief executive officer; and

(II) shall be experienced in matters relating to environmental education and training.

(c) RIGHTS AND OBLIGATIONS OF THE FOUNDATION.—

(1) IN GENERAL.—The Foundation—

(A) shall have perpetual succession;

(B) may conduct business throughout the several States, territories, and possessions of the United States and abroad;

(C) shall have its principal offices in the District of Columbia or in the greater metropolitan area; and

(D) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

The service of notice to, or service of notice upon, the agent required under paragraph (4), or mailed to the business address of such agent, shall be deemed as service upon or notice to the Foundation.

(2) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(3) POWERS.—To carry out its purposes under section 10(a) of this Act, the Foundation shall have, in addition to the powers otherwise given it under this section, the usual powers of a corporation acting as a trustee, including the power—

(A) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(B) to acquire by purchase or exchange any real or personal property or interest therein;

(C) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, reinvest, retain, or otherwise dispose of any property or income therefrom;

(D) to sue, or to be sued, and complain or defend itself in any court of competent jurisdiction, except that the Directors of the Board shall not be personally liable, except for gross negligence;

(E) to enter into contracts or other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(F) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

(d) CONDITIONS ON DONATIONS.—

(1) For the purposes of this section, a gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current future interest therein is for the benefit of the Foundation.

(2) No donation, gift, devise, bequest, property (either real or personal), voluntary services, or any other thing of value may be accepted by the Foundation if it—

(A) is contingent upon the transmission by the Foundation of materials or information prepared by the donor or a third party in such a fashion as to convey a particular point of view favorable to the economic interests of the donor or its constituents or associates; or

(B) in the judgment of the Board carries with it an explicit or implied requirement on the part of the Foundation to do a specific act or make general representations which are to the benefit of the donor and which are not consistent with the environmental and education goals and policies of the Environmental Protection Agency and with the intents and purposes of this Act.

(3) No materials bearing “logos”, letterhead or other means of identification associated with a donor or third party may be transmitted by the Foundation, for use in environmental education and training except as required pursuant to subsection (f).

(e) ADMINISTRATIVE SERVICES AND SUPPORT.—Subject to the requirements of this subsection, the Administrator may provide personnel, facilities, and other administrative services to the Foundation, including reimbursement of expenses under subsection (b)(6) of this section, not to exceed then current Federal Government per diem rates, for a period of up to 4 years from the date of enactment of this Act, and may accept reimbursement therefor, to be deposited in the Treasury to the credit of the appropriations then current and chargeable for the costs of providing such services. With respect to personnel, the Administrator may provide no more than 1 full-time employee to serve the Foundation in a policy capacity, and may provide clerical and other support staff at a level equivalent to 2 full-time equivalent employees to the Foundation, for a period not to exceed 2 years from the date of initial assignment of any personnel for this purpose.

(f) REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to Congress a report of its proceedings and activities during the year, including a full and complete statement of its receipts, expenditures, and investments.

(g) VOLUNTEER STATUS.—The Administrator may accept, without regard to the civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and the officers and employees of the Board, without compensation from the Environmental Protection Agency, as volunteers in the performance of the functions authorized herein, in the manner provided for under this section.

(h) AUDITS AND PETITION OF THE ATTORNEY GENERAL FOR EQUITABLE RELIEF.—For purposes of the Act entitled “An Act for audit of accounts of private corporations established under Federal law”, approved August 30, 1964 (Public Law 88-504; 36 U.S.C. 1101-1103), the Foundation shall be treated as a private corporation established under Federal law.

(i) UNITED STATES RELEASE FROM LIABILITY.—The United States shall not be liable for any debts, defaults, acts, or omissions

of the Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

(j) AMENDMENT AND REPEAL.—The Congress expressly reserves the right to repeal or amend this section at any time.

(20 U.S.C. 5509)

SEC. 11. AUTHORIZATION.

(a) There is hereby authorized to be appropriated to the Environmental Protection Agency to carry out this Act not to exceed \$12,000,000 for each fiscal year 1992 and 1993, not to exceed \$13,000,000 for fiscal year 1994, and not to exceed \$14,000,000 for each fiscal year 1995 and 1996.

(b) Of such sums appropriated in a fiscal year, 25 percent shall be available for the activities of the Office of Environmental Education, 25 percent shall be available for the operation of the environmental education and training program, 38 percent shall be available for environmental education grants, 10 percent shall be available for support of the National Environmental Education and Training Foundation, and 2 percent shall be available to support awards pursuant to section 8(e) of this Act.

(c) Funds appropriated pursuant to this section may be made available to the National Environmental Education and Training Foundation to—

(1) match partially or wholly the amount or value of contributions (whether in currency, services, or property) made to the Foundation by private persons and State and local governments; and

(2) provide administrative services under section 10(d) of this Act:

Provided, That the Administrator determines that such funds will be used to carry out the statutory purposes of the Foundation in a manner consistent with the goals, objectives and programs of this Act.

(20 U.S.C. 5510)

SECTION 5051 OF THE ANTI-DRUG ABUSE ACT OF 1988

SUBTITLE B—NATIONAL COMMISSION ON DRUG-FREE SCHOOLS

SEC. 5051. NATIONAL COMMISSION ON DRUG-FREE SCHOOLS.

(a) ESTABLISHMENT OF COMMISSION.—There is established a National Commission on Drug-Free Schools (hereinafter referred to as the “Commission”).

(b) MEMBERSHIP OF THE COMMISSION.—(1) The Commission shall consist of the following 26 members:

(A) The Secretary of Education (hereinafter referred to as the “Secretary”).

(B) The Director of National Drug Control Policy (hereinafter referred to as the “Director”).

(C) Sixteen individuals appointed by the Secretary and the Director.

(D) Four members of the House of Representatives, of which 2 members shall be appointed by the Speaker of the House of Representatives and 2 members shall be appointed by the Minority Leader of the House of Representatives.

(E) Four members of the Senate, of which 2 members shall be appointed by the Majority Leader of the Senate and 2 members shall be appointed by the Minority Leader of the Senate.

(2) The Secretary and the Director shall cochair the Commission.

(3) The members of the Commission appointed under paragraph (1)(C) shall consist of—

(A) experts in the fields of drug abuse prevention and education;

(B) representatives of State and local school authorities;

(C) representatives of parent-teacher associations;

(D) representatives of national education organizations;

(E) representatives of community groups with demonstrated records in drug abuse and prevention education;

(F) representatives of law enforcement officials; and

(G) other appropriate individuals as determined by the Secretary and the Director.

(c) APPOINTMENTS.—Members shall be appointed to the Commission not later than 30 days after the date of the enactment of this Act.

(d) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointment was made. A vacancy in the Commission shall not affect the powers of the Commission.

(e) QUORUM.—Fourteen members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) DUTIES OF THE COMMISSION.—The Commission shall—

(1) develop recommendations of criteria for identifying drug-free schools and campuses;

(2) develop recommendations for identifying model programs to meet such criteria;

(3) make such other findings, recommendations, and proposals as the Commission deems necessary to carry out the provisions of this section; and

(4) prepare and submit a final report pursuant to subsection (i).

(g) COMPENSATION.—(1) Each member of the Commission who is not an officer or employee of the United States shall be compensated at a rate established by the Commission not to exceed the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of duties as a member of the Commission. Each member of the Commission who is an officer or employee of the United States shall receive no additional compensation for service on the Commission.

(2) While away from their homes or regular places of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Commission not to exceed the rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(h) ADMINISTRATIVE PROVISIONS.—(1) The Commission shall appoint an Executive Director who shall be compensated at a rate established by the Commission not to exceed the rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(3) Subject to such rules as may be issued by the Commission, the cochairmen may procure temporary and intermittent services of experts and consultants.

(4) Upon request of the cochairmen of the Commission, the head of any Federal department, agency, or instrumentality shall make any of the facilities and services of such department, agency, or instrumentality available to the Commission and detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section.

(5) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) Service of an individual as a member of the Commission, or employment of an individual by the Commission as an attorney or expert in any business or professional field, on a part-time or full-time basis, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the

payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Commission, or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(i) REPORT OF COMMISSION.—The Commission shall report the findings and recommendations determined under subsection (f)(3) as well as proposals for any legislative action necessary to implement the recommendations of the Commission to the President and the Congress not later than 1 year after the date of the enactment of this Act. The final report of the Commission shall include—

(1) recommended criteria for schools to meet to be considered drug-free, which may include, but shall not be limited to—

(A) guidelines for the establishment of a drug education program for all students in grades kindergarten through 12;

(B) a code of student conduct;

(C) referral to treatment for students found to be using drugs; and

(D) coordinated programs for drug use prevention involving parents, teachers, counselors, local law enforcement personnel, businesses, and community organizations;

(2) a discussion of such issues as—

(A) the proper relationship among schools, parents or guardians, and law enforcement officials;

(B) what corrective measures should be imposed on students found to be using drugs;

(C) whether the suspension of eligibility for student assistance under title IV of the Higher Education Act upon conviction of a drug-related offense is a deterrent to drug use;

(D) any other measured response the Commission deems appropriate; and

(E) the potential effects of measured responses described in this paragraph on civil liberties, educational programs, nondrug-using students, and family relationships;

(3) a description of the assistance required by local school districts to establish drug-free schools and the manner in which local, State and Federal Government may provide such assistance; and

(4) a description of the feasibility of certain programs designed to enhance and raise self-esteem, self-confidence, independence, and responsibility among students.

(j) POWERS OF COMMISSION.—(1) For the purpose of carrying out this section, the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subsection.

(3) The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out this Act. Upon request of the cochairmen of the Commission, the head of such agency shall furnish such information to the Commission.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums shall remain available until expended. Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this section shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

(20 U.S.C. 3172 note)

TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

TITLE IX—PROHIBITION OF SEX DISCRIMINATION

SEX DISCRIMINATION PROHIBITED

SEC. 901. (a) No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, except that:

(1) in regard to admissions to educational institutions, this section shall apply only to institutions of vocational education, professional education, and graduate higher education, and to public institutions of undergraduate higher education;

(2) in regard to admissions to educational institutions, this section shall not apply (A) for one year from the date of enactment of this Act, nor for six years after such date in the case of an educational institution which has begun the process of changing from being an institution which admits only students of one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Commissioner of Education or (B) for seven years from the date an educational institution begins the process of changing from being an institution which admits only students of only one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Commissioner of Education, whichever is the later;

(3) this section shall not apply to an educational institution which is controlled by a religious organization if the application of this subsection would not be consistent with religious tenets of such organization;

(4) this section shall not apply to an educational institution whose primary purpose is the training of individuals for the military services of the United States, or the merchant marine;

(5) in regard to admissions this section shall not apply to any public institution of undergraduate higher education which is an institution that traditionally and continually from its establishment has had a policy of admitting only students of one sex;

(6) this section shall not apply to membership practices—

(A) of a social fraternity or social sorority which is exempt from taxation under section 501(a) of the Internal Revenue Code of 1954, the active membership of which consists primarily of students in attendance at an institution of higher education, or

(B) of the Young Men's Christian Association, Young Women's Christian Association, Girl Scouts, Boy Scouts, Camp Fire Girls, and voluntary youth service organizations which are so exempt, the membership of which has traditionally been limited to persons of one sex and principally to persons of less than nineteen years of age;

(7) this section shall not apply to—

(A) any program or activity of the American Legion undertaken in connection with the organization or operation of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

(B) any program or activity of any secondary school or educational institution specifically for—

(i) the promotion of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference, or

(ii) the selection of students to attend any such conference;

(8) this section shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided for students of the other sex; and

(9) this section shall not apply with respect to any scholarship or other financial assistance awarded by an institution of higher education to any individual because such individual has received such award in any pageant in which the attainment of such award is based upon a combination of factors related to the personal appearance, poise, and talent of such individual and in which participation is limited to individuals of one sex only, so long as such pageant is in compliance with other non-discrimination provisions of Federal law.

(b) Nothing contained in subsection (a) of this section shall be interpreted to require any educational institution to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in or receiving the benefits of any federally supported program or activity, in comparison with the total number or percentage of persons of that sex in any community, State, section, or other area: *Provided*, That this subsection shall not be construed to prevent the consideration in any hearing or proceeding under this title of statistical evidence tending to show that such an imbalance exists with respect to the participation in, or receipt of the benefits of, any such program or activity by the members of one sex.

(c) For purposes of this title an educational institution means any public or private preschool, elementary, or secondary school, or any institution of vocational, professional, or higher education, except that in the case of an educational institution composed of more than one school, college, or department which are administratively separate units, such term means each such school, college, or department.

(20 U.S.C. 1681) Enacted June 23, 1972, P.L. 92-318, sec. 901, 86 Stat. 373, 374; amended December 31, 1974, P.L. 93-568, sec. 3(a), 88 Stat. 1862; amended October 12, 1976, P.L. 94-482, sec. 412, 90 Stat. 2234.

FEDERAL ADMINISTRATIVE ENFORCEMENT

SEC. 902. Each Federal department and agency which is empowered to extend Federal financial assistance to any education program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 901 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made, and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however,* That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

(20 U.S.C. 1682) Enacted June 23, 1972, P.L. 92-318, sec. 903, 86 Stat. 374, 375.

JUDICIAL REVIEW

SEC. 903. Any department or agency action taken pursuant to section 1002¹ shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 902, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with chapter 7 of title 5, United States Code, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of section 701 of that title.

(20 U.S.C. 1683) Enacted June 23, 1972, P.L. 92-318, sec. 903, 86 Stat. 374, 375.

¹ Apparent error; should be 902.

PROHIBITION AGAINST DISCRIMINATION AGAINST THE BLIND

SEC. 904. No person in the United States shall, on the ground of blindness or severely impaired vision, be denied admission in any course of study by a recipient of Federal financial assistance for any educational program or activity, but nothing herein shall be construed to require any such institution to provide any special services to such person because of his blindness or visual impairment.

(20 U.S.C. 1684) Enacted June 23, 1972, P.L. 92-318, sec. 904, 86 Stat. 375.

EFFECT ON OTHER LAWS

SEC. 905. Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

(20 U.S.C. 1685) Enacted June 23, 1972, P.L. 92-318, sec. 905, 86 Stat. 375.

AMENDMENTS TO OTHER LAWS

SEC. 906. [Makes conforming amendments to other provisions of law.]

INTERPRETATION WITH RESPECT TO LIVING FACILITIES

SEC. 907. Notwithstanding anything to the contrary contained in this title, nothing contained herein shall be construed to prohibit any educational institution receiving funds under this Act, from maintaining separate living facilities for the different sexes.

(20 U.S.C. 1686) Enacted June 23, 1972, P.L. 92-318, sec. 907, 86 Stat. 375.

INTERPRETATION OF "PROGRAM OR ACTIVITY"

SEC. 908. For the purposes of this title, the term "program or activity" and "program" mean all of the operations of—

(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

(B) a local educational agency (as defined in section 14101 of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is ex-

tended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3);

any part of which is extended Federal financial assistance, except that such term does not include any operation of an entity which is controlled by a religious organization if the application of section 901 to such operation would not be consistent with the religious tenets of such organization.

(20 U.S.C. 1687) Enacted March 22, 1988, P.L. 100-259, sec. 3, 102 Stat. 28; amended October 20, 1994, P.L. 103-382, sec. 391(g), 108 Stat. 4023.

NEUTRALITY WITH RESPECT TO ABORTION

SEC. 909. Nothing in this title shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to an abortion. Nothing in this section shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or service related to a legal abortion.

(20 U.S.C. 1688) Enacted March 22, 1988, P.L. 100-259, sec. 3, 102 Stat. 29.

AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967

(Public Law 90-202)

AN ACT To prohibit age discrimination in employment

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 "Age Discrimination in Employment Act of 1967".

(29 U.S.C. 621 nt)

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds and declares that—

(1) in the face of rising productivity and affluence, older workers find themselves disadvantaged in their efforts to retain employment, and especially to regain employment when displaced from jobs;

(2) the setting of arbitrary age limits regardless of potential for job performance has become a common practice, and certain otherwise desirable practices may work to the disadvantage of older persons;

(3) the incidence of unemployment, especially long-term unemployment with resultant deterioration of skill, morale, and employer acceptability is, relative to the younger ages, high among older workers; their numbers are great and growing; and their employment problems grave;

(4) the existence in industries affecting commerce, of arbitrary discrimination in employment because of age, burdens commerce and the free flow of goods in commerce.

(b) It is therefore the purpose of this Act to promote employment of older persons based on their ability rather than age; to prohibit arbitrary age discrimination in employment; to help employers and workers find ways of meeting problems arising from the impact of age on employment.

(29 U.S.C. 621)

EDUCATION AND RESEARCH PROGRAM

SEC. 3. (a) The Secretary of Labor shall undertake studies and provide information to labor unions, management, and the general public concerning the needs and abilities of older workers, and their potentials for continued employment and contribution to the economy. In order to achieve the purposes of this Act, the Secretary of Labor shall carry on a continuing program of education and information, under which he may, among other measures—

(1) undertake research, and promote research, with a view to reducing barriers to the employment of older persons, and the promotion of measures for utilizing their skills;

(2) publish and otherwise make available to employers, professional societies, the various media of communication, and other interested persons the findings of studies and other materials for the promotion of employment;

(3) foster through the public employment service system and through cooperative effort the development of facilities of public and private agencies for expanding the opportunities and potentials of older persons;

(4) sponsor and assist State and community informational and educational programs.

(b) Not later than six months after the effective date of this Act, the Secretary shall recommend to the Congress any measures he may deem desirable to change the lower or upper age limits set forth in section 12.

(29 U.S.C. 622)

PROHIBITION OF AGE DISCRIMINATION

SEC. 4. (a) It shall be unlawful for an employer—

(1) to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's age;

(2) to limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's age; or

(3) to reduce the wage rate of any employee in order to comply with this Act.

(b) It shall be unlawful for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of such individual's age, or to classify or refer for employment any individual on the basis of such individual's age.

(c) It shall be unlawful for a labor organization—

(1) to exclude or to expel from its membership, or otherwise to discriminate against, any individual because of his age;

(2) to limit, segregate, or classify its membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect his status as an employee or as an applicant for employment, because of such individual's age;

(3) to cause or attempt to cause an employer to discriminate against an individual in violation of this section.

(d) It shall be unlawful for an employer to discriminate against any of his employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because such individual, member or applicant for membership has opposed any practice made unlawful by this section, or because such individual, member or applicant for membership has made a charge, testified, assisted, or participated in

any manner in an investigation, proceeding, or litigation under this Act.

(e) It shall be unlawful for an employer, labor organization, or employment agency to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification, or discrimination, based on age.

(f) It shall not be unlawful for an employer, employment agency, or labor organization—

(1) to take any action otherwise prohibited under subsections (a), (b), (c), or (e) of this section where age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business, or where the differentiation is based on reasonable factors other than age, or where such practices involve an employee in a workplace in a foreign country, and compliance with such subsections would cause such employer, or a corporation controlled by such employer, to violate the laws of the country in which such workplace is located;

(2) to take any action otherwise prohibited under subsection (a), (b), (c), or (e) of this section—

(A) to observe the terms of a bona fide seniority system that is not intended to evade the purposes of this Act, except that no such seniority system shall require or permit the involuntary retirement of any individual specified by section 12(a) because of the age of such individual; or

(B) to observe the terms of a bona fide employee benefit plan—

(i) where, for each benefit or benefit package, the actual amount of payment made or cost incurred on behalf of an older worker is no less than that made or incurred on behalf of a younger worker, as permissible under section 1625.10, title 29, Code of Federal Regulations (as in effect on June 22, 1989); or

(ii) that is a voluntary early retirement incentive plan consistent with the relevant purpose or purposes of this Act.

Notwithstanding clause (i) or (ii) of subparagraph (B), no such employee benefit plan or voluntary early retirement incentive plan shall excuse the failure to hire any individual, and no such employee benefit plan shall require or permit the involuntary retirement of any individual specified by section 12(a), because of the age of such individual. An employer, employment agency, or labor organization acting under subparagraph (A), or under clause (i) or (ii) of subparagraph (B), shall have the burden of proving that such actions are lawful in any civil enforcement proceeding brought under this Act; or

(3) to discharge or otherwise discipline an individual for good cause.

[Subsection (g), Repealed by P.L. 101-239, sec. 6202(b)(3)(C)(i), Dec. 19, 1989, 103 Stat. 2233]

(h)(1) If an employer controls a corporation whose place of incorporation is in a foreign country, any practice by such corporation prohibited under this section shall be presumed to be such practice by such employer.

(2) The prohibitions of this section shall not apply where the employer is a foreign person not controlled by an American employer.

(3) For the purpose of this subsection the determination of whether an employer controls a corporation shall be based upon the—

- (A) interrelation of operations,
- (B) common management,
- (C) centralized control of labor relations, and
- (D) common ownership or financial control,

of the employer and the corporation.

(i)(1) Except as otherwise provided in this subsection, it shall be unlawful for an employer, an employment agency, a labor organization, or any combination thereof to establish or maintain an employee pension benefit plan which requires or permits—

(A) in the case of a defined benefit plan, the cessation of an employee's benefit accrual, or the reduction of the rate of an employee's benefit accrual, because of age, or

(B) in the case of a defined contribution plan, the cessation of allocations to an employee's account, or the reduction of the rate at which amounts are allocated to an employee's account, because of age.

(2) Nothing in this section shall be construed to prohibit an employer, employment agency, or labor organization from observing any provision of an employee pension benefit plan to the extent that such provision imposes (without regard to age) a limitation on the amount of benefits that the plan provides or a limitation on the number of years of service or years of participation which are taken into account for purposes of determining benefit accrual under the plan.

(3) In the case of any employee who, as of the end of any plan year under a defined benefit plan, has attained normal retirement age under such plan—

(A) if distribution of benefits under such plan with respect to such employee has commenced as of the end of such plan year, then any requirement of this subsection for continued accrual of benefits under such plan with respect to such employee during such plan year shall be treated as satisfied to the extent of the actuarial equivalent of in-service distribution of benefits, and

(B) if distribution of benefits under such plan with respect to such employee has not commenced as of the end of such year in accordance with section 206(a)(3) of the Employee Retirement Income Security Act of 1974 and section 401(a)(14)(C) of the Internal Revenue Code of 1986, and the payment of benefits under such plan with respect to such employee is not suspended during such plan year pursuant to section 203(a)(3)(B) of the Employee Retirement Income Security Act of 1974 or section 411(a)(3)(B) of the Internal Revenue Code of 1986, then any requirement of this subsection for continued accrual of benefits under such plan with respect to such employee during

such plan year shall be treated as satisfied to the extent of any adjustment in the benefit payable under the plan during such plan year attributable to the delay in the distribution of benefits after the attainment of normal retirement age.

The provisions of this paragraph shall apply in accordance with regulations of the Secretary of the Treasury. Such regulations shall provide for the application of the preceding provisions of this paragraph to all employee pension benefit plans subject to this subsection and may provide for the application of such provisions, in the case of any such employee, with respect to any period of time within a plan year.

(4) Compliance with the requirements of this subsection with respect to an employee pension benefit plan shall constitute compliance with the requirements of this section relating to benefit accrual under such plan.

(5) Paragraph (1) shall not apply with respect to any employee who is a highly compensated employee (within the meaning of section 414(q) of the Internal Revenue Code of 1986) to the extent provided in regulations prescribed by the Secretary of the Treasury for purposes of precluding discrimination in favor of highly compensated employees within the meaning of subchapter D of chapter 1 of the Internal Revenue Code of 1986.

(6) A plan shall not be treated as failing to meet the requirements of paragraph (1) solely because the subsidized portion of any early retirement benefit is disregarded in determining benefit accruals or it is a plan permitted by subsection (m)..¹

(7) Any regulations prescribed by the Secretary of the Treasury pursuant to clause (v) of section 411(b)(1)(H) of the Internal Revenue Code of 1986 and subparagraphs (C) and (D) of section 411(b)(2) of such Code shall apply with respect to the requirements of this subsection in the same manner and to the same extent as such regulations apply with respect to the requirements of such sections 411(b)(1)(H) and 411(b)(2).

(8) A plan shall not be treated as failing to meet the requirements of this section solely because such plan provides a normal retirement age described in section 3(24)(B) of the Employee Retirement Income Security Act of 1974 and section 411(a)(8)(B) of the Internal Revenue Code of 1986.

(9) For purposes of this subsection—

(A) The terms “employee pension benefit plan”, “defined benefit plan”, “defined contribution plan”, and “normal retirement age” have the meanings provided such terms in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

(B) The term “compensation” has the meaning provided by section 414(s) of the Internal Revenue Code of 1986.

(j) It shall not be unlawful for an employer which is a State, a political subdivision of a State, an agency or instrumentality of a State or a political subdivision of a State, or an interstate agency to fail or refuse to hire or to discharge any individual because of such individual’s age if such action is taken—

(1) with respect to the employment of an individual as a firefighter or as a law enforcement officer, the employer has

¹ So in original.

complied with section 3(d)(2) of the Age Discrimination in Employment Amendments of 1996 if the individual was discharged after the date described in such section, and the individual has attained—

(A) the age of hiring or retirement, respectively, in effect under applicable State or local law on March 3, 1983; or

(B)(i) if the individual was not hired, the age of hiring in effect on the date of such failure or refusal to hire under applicable State or local law enacted after the date of enactment of the Age Discrimination in Employment Amendments of 1996; or

(ii) if applicable State or local law was enacted after the date of enactment of the Age Discrimination in Employment Amendments of 1996 and the individual was discharged, the higher of—

(I) the age of retirement in effect on the date of such discharge under such law; and

(II) age 55; and

(2) pursuant to a bona fide hiring or retirement plan that is not a subterfuge to evade the purposes of this Act.

(k) A seniority system or employee benefit plan shall comply with this Act regardless of the date of adoption of such system or plan.

(l) Notwithstanding clause (i) or (ii) of subsection (f)(2)(B)—

(1) It shall not be a violation of subsection (a), (b), (c), or (e) solely because—

(A) an employee pension benefit plan (as defined in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2))) provides for the attainment of a minimum age as a condition of eligibility for normal or early retirement benefits; or

(B) a defined benefit plan (as defined in section 3(35) of such Act) provides for—

(i) payments that constitute the subsidized portion of an early retirement benefit; or

(ii) social security supplements for plan participants that commence before the age and terminate at the age (specified by the plan) when participants are eligible to receive reduced or unreduced old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.), and that do not exceed such old-age insurance benefits.

(2)(A) It shall not be a violation of subsection (a), (b), (c), or (e) solely because following a contingent event unrelated to age—

(i) the value of any retiree health benefits received by an individual eligible for an immediate pension;

(ii) the value of any additional pension benefits that are made available solely as a result of the contingent event unrelated to age and following which the individual is eligible for not less than an immediate and unreduced pension; or

(iii) the values described in both clauses (i) and (ii), are deducted from severance pay made available as a result of the contingent event unrelated to age.

(B) For an individual who receives immediate pension benefits that are actuarially reduced under subparagraph (A)(i), the amount of the deduction available pursuant to subparagraph (A)(i) shall be reduced by the same percentage as the reduction in the pension benefits.

(C) For purposes of this paragraph, severance pay shall include that portion of supplemental unemployment compensation benefits (as described in section 501(c)(17) of the Internal Revenue Code of 1986) that—

- (i) constitutes additional benefits of up to 52 weeks;
- (ii) has the primary purpose and effect of continuing benefits until an individual becomes eligible for an immediate and unreduced pension; and
- (iii) is discontinued once the individual becomes eligible for an immediate and unreduced pension.

(D) For purposes of this paragraph and solely in order to make the deduction authorized under this paragraph, the term “retiree health benefits” means benefits provided pursuant to a group health plan covering retirees, for which (determined as of the contingent event unrelated to age)—

- (i) the package of benefits provided by the employer for the retirees who are below age 65 is at least comparable to benefits provided under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);
- (ii) the package of benefits provided by the employer for the retirees who are age 65 and above is at least comparable to that offered under a plan that provides a benefit package with one-fourth the value of benefits provided under title XVIII of such Act; or
- (iii) the package of benefits provided by the employer is as described in clauses (i) and (ii).

(E)(i) If the obligation of the employer to provide retiree health benefits is of limited duration, the value for each individual shall be calculated at a rate of \$3,000 per year for benefit years before age 65, and \$750 per year for benefit years beginning at age 65 and above.

(ii) If the obligation of the employer to provide retiree health benefits is of unlimited duration, the value for each individual shall be calculated at a rate of \$48,000 for individuals below age 65, and \$24,000 for individuals age 65 and above.

(iii) The values described in clauses (i) and (ii) shall be calculated based on the age of the individual as of the date of the contingent event unrelated to age. The values are effective on the date of enactment of this subsection, and shall be adjusted on an annual basis, with respect to a contingent event that occurs subsequent to the first year after the date of enactment of this subsection, based on the medical component of the Consumer Price Index for all-urban consumers published by the Department of Labor.

(iv) If an individual is required to pay a premium for retiree health benefits, the value calculated pursuant to this subparagraph shall be reduced by whatever percentage of the overall premium the individual is required to pay.

(F) If an employer that has implemented a deduction pursuant to subparagraph (A) fails to fulfill the obligation described in subparagraph (E), any aggrieved individual may bring an action for

specific performance of the obligation described in subparagraph (E). The relief shall be in addition to any other remedies provided under Federal or State law.

(3) It shall not be a violation of subsection (a), (b), (c), or (e) solely because an employer provides a bona fide employee benefit plan or plans under which long-term disability benefits received by an individual are reduced by any pension benefits (other than those attributable to employee contributions)—

(A) paid to the individual that the individual voluntarily elects to receive; or

(B) for which an individual who has attained the later of age 62 or normal retirement age is eligible.

(m) Notwithstanding subsection (f)(2)(B), it shall not be a violation of subsection (a), (b), (c), or (e) solely because a plan of an institution of higher education (as defined in section 101 of the Higher Education Act of 1965) offers employees who are serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure) supplemental benefits upon voluntary retirement that are reduced or eliminated on the basis of age, if—

(1) such institution does not implement with respect to such employees any age-based reduction or cessation of benefits that are not such supplemental benefits, except as permitted by other provisions of this Act;

(2) such supplemental benefits are in addition to any retirement or severance benefits which have been offered generally to employees serving under a contract of unlimited tenure (or similar arrangement providing for unlimited tenure), independent of any early retirement or exit-incentive plan, within the preceding 365 days; and

(3) any employee who attains the minimum age and satisfies all non-age-based conditions for receiving a benefit under the plan has an opportunity lasting not less than 180 days to elect to retire and to receive the maximum benefit that could then be elected by a younger but otherwise similarly situated employee, and the plan does not require retirement to occur sooner than 180 days after such election.

(29 U.S.C. 623)

STUDY BY SECRETARY OF LABOR

SEC. 5. (a)(1) The Secretary of Labor is directed to undertake an appropriate study of institutional and other arrangements giving rise to involuntary retirement, and report his findings and any appropriate legislative recommendations to the President and to the Congress. Such study shall include—

(A) an examination of the effect of the amendment made by section 3(a) of the Age Discrimination in Employment Act Amendments of 1978 in raising the upper age limitation established by section 12(a) of this Act to 70 years of age;

(B) a determination of the feasibility of eliminating such limitation;

(C) a determination of the feasibility of raising such limitation above 70 years of age; and

(D) an examination of the effect of the exemption contained in section 12(c), relating to certain executive employees,

and the exemption contained in section 12(d), relating to tenured teaching personnel.

(2) The Secretary may undertake the study required by paragraph (1) of this subsection directly or by contract or other arrangement.

(b) The report required by subsection (a) of this section shall be transmitted to the President and to the Congress as an interim report not later than January 1, 1981, and in final form not later than January 1, 1982.

(29 U.S.C. 624)

ADMINISTRATION

SEC. 6. The Secretary shall have the power—

(a) to make delegations, to appoint such agents and employees, and to pay for technical assistance on a fee for service basis, as he deems necessary to assist him in the performance of his functions under this Act;

(b) to cooperate with regional, State, local, and other agencies, and to cooperate with and furnish technical assistance to employers, labor organizations, and employment agencies to aid in effectuating the purposes of this Act.

(29 U.S.C. 625)

RECORDKEEPING, INVESTIGATION, AND ENFORCEMENT

SEC. 7. (a) The Secretary shall have the power to make investigations and require the keeping of records necessary or appropriate for the administration of this Act in accordance with the powers and procedures provided in sections 9 and 11 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 209 and 211).

(b) The provisions of this Act shall be enforced in accordance with the powers, remedies, and procedures provided in sections 11(b), 16 (except for subsection (a) thereof), and 17 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(b), 216, 217), and subsection (c) of this section. Any act prohibited under section 4 of this Act shall be deemed to be a prohibited act under section 15 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 215). Amounts owing to a person as a result of a violation of this Act shall be deemed to be unpaid minimum wages or unpaid overtime compensation for purposes of sections 16 and 17 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 216, 217): *Provided*, That liquidated damages shall be payable only in cases of willful violations of this Act. In any action brought to enforce this Act the court shall have jurisdiction to grant such legal or equitable relief as may be appropriate to effectuate the purposes of this Act, including without limitation judgments compelling employment, reinstatement or promotion, or enforcing the liability for amounts deemed to be unpaid minimum wages or unpaid overtime compensation under this section. Before instituting any action under this section, the Secretary shall attempt to eliminate the discriminatory practice or practices alleged, and to effect voluntary compliance with the requirements of this Act through informal methods of conciliation, conference, and persuasion.

(c)(1) Any person aggrieved may bring a civil action in any court of competent jurisdiction for such legal or equitable relief as

will effectuate the purposes of this Act: *Provided*, That the right of any person to bring such action shall terminate upon the commencement of an action by the Secretary to enforce the right of such employee under this Act.

(2) In an action brought under paragraph (1), a person shall be entitled to a trial by jury of any issue of fact in any such action for recovery of amounts owing as a result of a violation of this Act, regardless of whether equitable relief is sought by any party in such action.

(d) No civil action may be commenced by an individual under this section until 60 days after a charge alleging unlawful discrimination has been filed with the Secretary. Such a charge shall be filed—

(1) within 180 days after the alleged unlawful practice occurred; or

(2) in a case to which section 14(b) applies, within 300 days after the alleged unlawful practice occurred, or within 30 days after receipt by the individual of notice of termination of proceedings under State law, whichever is earlier.

Upon receiving such a charge, the Secretary shall promptly notify all persons named in such charge as prospective defendants in the action and shall promptly seek to eliminate any alleged unlawful practice by informal methods of conciliation, conference, and persuasion.

(e) Section 10 of the Portal-to-Portal Act of 1947 shall apply to actions under this Act. If a charge filed with the Commission under this Act is dismissed or the proceedings of the Commission are otherwise terminated by the Commission, the Commission shall notify the person aggrieved. A civil action may be brought under this section by a person defined in section 11(a) against the respondent named in the charge within 90 days after the date of the receipt of such notice.

(f)(1) An individual may not waive any right or claim under this Act unless the waiver is knowing and voluntary. Except as provided in paragraph (2), a waiver may not be considered knowing and voluntary unless at a minimum—

(A) the waiver is part of an agreement between the individual and the employer that is written in a manner calculated to be understood by such individual, or by the average individual eligible to participate;

(B) the waiver specifically refers to rights or claims arising under this Act;

(C) the individual does not waive rights or claims that may arise after the date the waiver is executed;

(D) the individual waives rights or claims only in exchange for consideration in addition to anything of value to which the individual already is entitled;

(E) the individual is advised in writing to consult with an attorney prior to executing the agreement;

(F)(i) the individual is given a period of at least 21 days within which to consider the agreement; or

(ii) if a waiver is requested in connection with an exit incentive or other employment termination program offered to a group or class of employees, the individual is given a period of at least 45 days within which to consider the agreement;

(G) the agreement provides that for a period of at least 7 days following the execution of such agreement, the individual may revoke the agreement, and the agreement shall not become effective or enforceable until the revocation period has expired;

(H) if a waiver is requested in connection with an exit incentive or other employment termination program offered to a group or class of employees, the employer (at the commencement of the period specified in subparagraph (F)) informs the individual in writing in a manner calculated to be understood by the average individual eligible to participate, as to—

(i) any class, unit, or group of individuals covered by such program, any eligibility factors for such program, and any time limits applicable to such program; and

(ii) the job titles and ages of all individuals eligible or selected for the program, and the ages of all individuals in the same job classification or organizational unit who are not eligible or selected for the program.

(2) A waiver in settlement of a charge filed with the Equal Employment Opportunity Commission, or an action filed in court by the individual or the individual's representative, alleging age discrimination of a kind prohibited under section 4 or 15 may not be considered knowing and voluntary unless at a minimum—

(A) subparagraphs (A) through (E) of paragraph (1) have been met; and

(B) the individual is given a reasonable period of time within which to consider the settlement agreement.

(3) In any dispute that may arise over whether any of the requirements, conditions, and circumstances set forth in subparagraph (A), (B), (C), (D), (E), (F), (G), or (H) of paragraph (1), or subparagraph (A) or (B) of paragraph (2), have been met, the party asserting the validity of a waiver shall have the burden of proving in a court of competent jurisdiction that a waiver was knowing and voluntary pursuant to paragraph (1) or (2).

(4) No waiver agreement may affect the Commission's rights and responsibilities to enforce this Act. No waiver may be used to justify interfering with the protected right of an employee to file a charge or participate in an investigation or proceeding conducted by the Commission.

(29 U.S.C. 626)

NOTICES TO BE POSTED

SEC. 8. Every employer, employment agency, and labor organization shall post and keep posted in conspicuous places upon its premises a notice to be prepared or approved by the Secretary setting forth information as the Secretary deems appropriate to effectuate the purposes of this Act.

(29 U.S.C. 627)

RULES AND REGULATIONS

SEC. 9. In accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, the Secretary of Labor may issue such rules and regulations as he may consider necessary or appropriate for carrying out this Act, and may establish such rea-

sonable exemptions to and from any or all provisions of this Act as he may find necessary and proper in the public interest.

(29 U.S.C. 628)

CRIMINAL PENALTIES

SEC. 10. Whoever shall forcibly resist, oppose, impede, intimidate or interfere with a duly authorized representative of the Secretary while he is engaged in the performance of duties under this Act shall be punished by a fine of not more than \$500 or by imprisonment for not more than one year, or by both: *Provided, however,* That no person shall be imprisoned under this section except when there has been a prior conviction hereunder.

(29 U.S.C. 629)

DEFINITIONS

SEC. 11. For the purposes of this Act—

(a) The term “person” means one or more individuals, partnerships, associations, labor organizations, corporations, business trusts, legal representatives, or any organized groups of persons.

(b) The term “employer” means a person engaged in an industry affecting commerce who has twenty or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year: *Provided,* That prior to June 30, 1968, employers having fewer than fifty employees shall not be considered employers. The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, and any interstate agency, but such term does not include the United States, or a corporation wholly owned by the Government of the United States.

(c) The term “employment agency” means any person regularly undertaking with or without compensation to procure employees for an employer and includes an agent of such a person; but shall not include an agency of the United States.

(d) The term “labor organization” means a labor organization engaged in an industry affecting commerce, and any agent of such an organization, and includes any organization of any kind, any agency, or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and any conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(e) A labor organization shall be deemed to be engaged in an industry affecting commerce if (1) it maintains or operates a hiring hall or hiring office which procures employees for an employer or procures for employees opportunities to work for an employer, or (2) the number of its members (or, where it is a labor organization composed of other labor organizations or their representatives, if the aggregate number of the members of such other labor organization) is fifty or more prior to July 1, 1968, or twenty-five or more on or after July 1, 1968, and such labor organization—

(1) is the certified representative of employees under the provisions of the National Labor Relations Act, as amended, or the Railway Labor Act, as amended; or

(2) although not certified, is a national or international labor organization or a local labor organization recognized or acting as the representative of employees of an employer or employers engaged in an industry affecting commerce; or

(3) has chartered a local labor organization or subsidiary body which is representing or actively seeking to represent employees of employers within the meaning of paragraph (1) or (2); or

(4) has been chartered by a labor organization representing or actively seeking to represent employees within the meaning of paragraph (1) or (2) as the local or subordinate body through which such employees may enjoy membership or become affiliated with such labor organization; or

(5) is a conference, general committee, joint or system board, or joint council subordinate to a national or international labor organization, which includes a labor organization engaged in an industry affecting commerce within the meaning of any of the preceding paragraphs of this subsection.

(f) The term "employee" means an individual employed by any employer except that the term "employee" shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policymaking level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency, or political subdivision. The term "employee" includes any individual who is a citizen of the United States employed by an employer in a workplace in a foreign country.

(g) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication among the several States; or between a State and any place outside thereof; or within the District of Columbia, or a possession of the United States; or between points in the same State but through a point outside thereof.

(h) The term "industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Reporting and Disclosure Act of 1959.

(i) The term "State" includes a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act.

(j) The term "firefighter" means an employee, the duties of whose position are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment, including an em-

ployee engaged in this activity who is transferred to a supervisory or administrative position.

(k) The term "law enforcement officer" means an employee, the duties of whose position are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of a State, including an employee engaged in this activity who is transferred to a supervisory or administrative position. For the purpose of this subsection, "detention" includes the duties of employees assigned to guard individuals incarcerated in any penal institution.

(l) The term "compensation, terms, conditions, or privileges of employment" encompasses all employee benefits, including such benefits provided pursuant to a bona fide employee benefit plan.

(29 U.S.C. 630)

AGE LIMITATION

SEC. 12. (a) The prohibitions in this Act shall be limited to individuals who are at least 40 years of age.¹

(b) In the case of any personnel action affecting employees or applicants for employment which is subject to the provisions of section 15 of this Act, the prohibitions established in section 15 of this Act shall be limited to individuals who are at least 40 years of age.

(c)(1) Nothing in this Act shall be construed to prohibit compulsory retirement of any employee who has attained 65 years of age and who, for the 2-year period immediately before retirement, is employed in a bona fide executive or a high policymaking position, if such employee is entitled to an immediate nonforfeitable annual retirement benefit from a pension, profit-sharing, savings, or deferred compensation plan, or any combination of such plans, of the employer of such employee, which equals, in the aggregate, at least \$44,000.

(2) In applying the retirement benefit test of paragraph (1) of this subsection, if any such retirement benefit is in a form other than a straight life annuity (with no ancillary benefits), or if employees contribute to any such plan or make rollover contributions, such benefit shall be adjusted in accordance with regulations prescribed by the Secretary, after consultation with the Secretary of the Treasury, so that the benefit is the equivalent of a straight life annuity (with no ancillary benefits) under a plan to which employees do not contribute and under which no rollover contributions are made.

(29 U.S.C. 631)

ANNUAL REPORT

SEC. 13. The Secretary shall submit annually in January a report to the Congress covering his activities for the preceding year and including such information, data, and recommendations for further legislation in connection with the matters covered by this Act as he may find advisable. Such report shall contain an evaluation and appraisal by the Secretary of the effect of the minimum and maximum ages established by this Act, together with the recommendations to the Congress. In making such evaluation and ap-

¹ P.L. 99-592 struck out "seventy" instead of "70"; intent was executed anyway.

praisal, the Secretary shall take into consideration any changes which may have occurred in the general age level of the population, the effect of the Act upon workers not covered by its provisions, and such other factors as he may deem pertinent.

(29 U.S.C. 632)

FEDERAL-STATE RELATIONSHIP

SEC. 14. (a) Nothing in this Act shall affect the jurisdiction of any agency of any State performing like functions with regard to discriminatory employment practices on account of age except that upon commencement of action under this Act such action shall supersede and State action.

(b) In the case of an alleged unlawful practice occurring in a State which has a law prohibiting discrimination in employment because of age and establishing or authorizing a State authority to grant or seek relief from such discriminatory practice, no suit may be brought under section 7 of this Act before the expiration of sixty days after proceedings have been commenced under the State law, unless such proceedings have been earlier terminated: *Provided*, That such sixty-day period shall be extended to one hundred and twenty days during the first year after the effective date of such State law. If any requirement for the commencement of such proceedings is imposed by a State authority other than a requirement of the filing of a written and signed statement of the facts upon which the proceeding is based, the proceeding shall be deemed to have been commenced for the purposes of this subsection at the time such statement is sent by registered mail to the appropriate State authority.

(29 U.S.C. 633)

NONDISCRIMINATION ON ACCOUNT OF AGE IN FEDERAL GOVERNMENT EMPLOYMENT

SEC. 15. (a) All personnel actions affecting employees or applicants for employment who are at least 40 years of age (except personnel actions with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units in the government of the District of Columbia having positions in the competitive service, and in those units of the judicial branch of the Federal Government having positions in the competitive service, in the Smithsonian Institution, and in the Government Printing Office, the General Accounting Office, and the Library of Congress shall be made free from any discrimination based on age.

(b) Except as otherwise provided in this subsection, the Civil Service Commission is authorized to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without backpay, as will effectuate the policies of this section. The Civil Service Commission shall issue such rules, regulations, orders, and instructions as it deems

necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

(1) be responsible for the review and evaluation of the operation of all agency programs designed to carry out the policy of this section, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each department, agency, or unit referred to in subsection (a);

(2) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to non-discrimination in employment on account of age; and

(3) provide for the acceptance and processing of complaints of discrimination in Federal employment on account of age.

The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions of the Civil Service Commission which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. Reasonable exemptions to the provisions of this section may be established by the Commission but only when the Commission has established a maximum age requirement on the basis of a determination that age is a bona fide occupational qualification necessary to the performance of the duties of the position. With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

(c) Any person aggrieved may bring a civil action in any Federal district court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this Act.

(d) When the individual has not filed a complaint concerning age discrimination with the Commission, no civil action may be commenced by any individual under this section until the individual has given the Commission not less than thirty days' notice of an intent to file such action. Such notice shall be filed within one hundred and eighty days after the alleged unlawful practice occurred. Upon receiving a notice of intent to sue, the Commission shall promptly notify all persons named therein as prospective defendants in the action and take any appropriate action to assure the elimination of any unlawful practice.

(e) Nothing contained in this section shall relieve any Government agency or official of the responsibility to assure non-discrimination on account of age in employment as required under any provision of Federal law.

(f) Any personnel action of any department, agency, or other entity referred to in subsection (a) of this section shall not be subject to, or affected by, any provision of this Act, other than the provisions of section 12(b) of this Act and the provisions of this section.

(g)(1) The Civil Service Commission shall undertake a study relating to the effects of the amendments made to this section by the Age Discrimination in Employment Act Amendments of 1978, and the effects of section 12(b) of this Act, as added by the Age Discrimination in Employment Act Amendments of 1978.

(2) The Civil Service Commission shall transmit a report to the President and to the Congress containing the findings of the Commission resulting from the study of the Commission under para-

graph (1) of this subsection. Such report shall be transmitted no later than January 1, 1980.

(29 U.S.C. 633a)

EFFECTIVE DATE

SEC. 16. This Act shall become effective one hundred and eighty days after enactment, except (a) that the Secretary of Labor may extend the delay in effective date of any provision of this Act up to an additional ninety days thereafter if he finds that such time is necessary in permitting adjustments to the provisions hereof, and (b) that on or after the date of enactment the Secretary of Labor is authorized to issue such rules and regulations as may be necessary to carry out its provisions.

(29 U.S.C. 621 nt)

APPROPRIATIONS

SEC. 17. There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act.

(29 U.S.C. 634)