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S1284 Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994

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THE WHITE HOUSE

WASHINGTON

April 6, 1994

APPROVED
APR - 6 1994

MEMORANDUM TO THE PRESIDENT

FROM: JOHN PODESTA *JP*

SUBJECT: Signing of Bills

Attached for your signature are the following non-controversial bills.

S. 1913 - Compliance Dates for Pesticide Safety Requirements, which delays implementation of certain pesticide safety requirements from April 15, 1994 to January 1, 1995;

S. 1284 - Development Disabilities Assistance and Bill of Rights Act Amendments, which reauthorizes through FY 1996 the Disabilities Assistance and Bill of Rights Act which makes formula grants to the states for services to the developmentally disabled, and;

H.J. Res 329 - Education and Sharing Day, U.S.A., 1994.

These bills have been cleared by the relevant agencies, OMB, and White House staff.

I recommend that you sign these bills.



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

THE DIRECTOR

March 31, 1994

94 MAR 31 P3:00

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Enrolled Bill S. 1284 - Developmental Disabilities
Assistance and Bill of Rights Act Amendments of 1994
Sponsors - Harkin (D) IA and 10 others

Last Day for Action

April 6, 1994 - Wednesday

Purpose

(1) Extends through fiscal year 1996 the authorization for appropriations for the programs under the Developmental Disabilities Assistance and Bill of Rights Act; and (2) makes technical and clarifying amendments to the Act.

Agency Recommendations

Office of Management and Budget	Approval
Department of Health and Human Services (HHS)	Approval
President's Committee on Employment of People with Disabilities	Approval
National Council on Disability	Approval (Informally)
Department of Transportation	Approval (Informally)
Office of Consumer Affairs	Approval (Informally)
Department of Justice	No objection
Department of Agriculture	No objection (Informally)
Department of the Interior	No objection (Informally)
Architectural and Transportation Barriers Compliance Board	No objection (Informally)
Office of Personnel Management	No objection (Informally)
Department of Labor	No objection (Informally)
Office of Science and Technology Policy	No objection (Informally)

Department of Education

Defers to HHS
(Informally)

Department of Housing and Urban
Development

Defers to HHS
(Informally)

Discussion

Under the Developmental Disabilities Assistance and Bill of Rights Act (the Act), HHS provides grants to assist individuals with developmental disabilities. Developmental disabilities are defined as severe, chronic disabilities attributable to mental and/or physical impairments manifesting themselves before the age of 22 requiring services for an extended period of time. Examples of such disabilities are mental retardation, cerebral palsy, and pediatric AIDS.

HHS makes formula grants to the States for services to the developmentally disabled and for systems for the protection and advocacy of the rights of these individuals. In addition, HHS provides grants for training, research, and demonstrations by university affiliated facilities and for projects of national significance.

The primary purpose of S. 1284 is to authorize appropriations for programs under the Act. The enrolled bill would also amend other provisions in the Act. The major provisions of S. 1284 are summarized below. A more detailed summary of the enrolled bill is provided with the HHS views letter.

Major Provisions of S. 1284

Authorization of Appropriations. S. 1284 would authorize appropriations totalling \$117.0 million in fiscal year 1994 and such sums as necessary for each of fiscal years 1995 and 1996 for programs under the Act. The fiscal year 1995 Budget recommends funding at the fiscal year 1994 enacted level of \$115.2 million.

Emphasis on Inclusion of All Individuals. S. 1284 would emphasize the inclusion of all individuals with developmental disabilities in the programs authorized under the Act. The bill would add language regarding unserved and underserved populations, including racial and ethnic minorities, and "culturally competent" services and assistance for these individuals. To ensure maximum participation, these "culturally competent" activities would be conducted or provided in the manner most responsive to the beliefs, interpersonal styles, attitudes, language, and behaviors of the individuals being served.

Allotment Formula Review. S. 1284 would direct the Secretary of HHS to review, analyze, and identify alternatives to the allotment formula prescribed by the Act for State Developmental Disabilities Councils and the Protection and Advocacy Systems. The purpose of this evaluation is to ensure that the allotment formula is consistent with the Act's purpose. In addition, no later than October 1, 1995, the Secretary would be required to submit a report to specified congressional committees summarizing the results of the analysis and providing alternative funding formulas for these two programs.

Reevaluation of State Council Programs. S. 1284 would mandate, not later than April 1, 1994, a special initiative to investigate the expansion of State Developmental Disability Council programs to individuals with severe disabilities that are manifested after age 21. These investigations would be implemented through three different studies to be completed between June 1995 and May 1996.

Technical Amendments. Through various technical and conforming amendments, S. 1284 would make the Act more "user-friendly" by reorganizing its provisions into a more logical configuration (e.g., alphabetizing definitions and adding headings).

Conclusion and Recommendations

We join HHS and other affected agencies in recommending approval of H.R. 1284, which passed the Senate and the House by voice vote.



Leon E. Panetta
Director

Enclosures



THE SECRETARY OF HEALTH AND HUMAN SERVICES
WASHINGTON, D.C. 20201

March 30, 1994

The Honorable Leon E. Panetta
Director, Office of Management
and Budget
Washington, DC 20503

Dear Mr. Panetta:

This is in response to your request for the views of the Department of Health and Human Services on S. 1284, an enrolled bill entitled the "Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994".

We recommend that the President approve the enrolled bill, which extends through fiscal year 1996 authorizations of appropriations for the programs under the Developmental Disabilities Assistance and Bill of Rights Act (the Act) and makes several amendments to update, clarify and strengthen the Act.

S. 1284 makes amendments to the Act to emphasize respect for individual dignity, personal preferences, and cultural differences in the provision of services, supports and other assistance, and to recognize that individuals with developmental disabilities and their families are the primary decisionmakers regarding services, supports, and other assistance they receive. We strongly support strengthening the Act to emphasize the principles of empowerment, self-determination, and individual dignity for individuals with developmental disabilities. The aforementioned amendments will empower individuals with developmental disabilities and their families to control their own lives and will foster full inclusion of individuals with developmental disabilities in all aspects of our society.

The enrolled bill amends the Act to ensure that racial and ethnic minorities are fully included at all levels and in all activities authorized under this Act. Language is added regarding unserved and underserved populations (which include individuals from racial and ethnic minority backgrounds) and "culturally competent" services, supports and other assistance. We fully support ensuring full participation of racial and ethnic minorities at all levels and in all activities authorized under the Act. We also adhere to the principle that services should be provided in a manner that is responsive to the beliefs, interpersonal styles, attitudes, language and behaviors of the individuals with developmental disabilities who are receiving such assistance.

S. 1284 also includes several provisions to update the programs under the Act and increase their effectiveness, including the development of new program standards for University Affiliated Programs (UAPs) and the review, analysis, and identification of alternatives to the current allotment formula under part B (State Developmental Disabilities Councils) and part C (Protection and Advocacy Systems). We support strengthening the responsiveness of programs under the Act to the changing needs of individuals with developmental disabilities. New UAP standards will more accurately reflect the current focus of UAPs. We also believe it is important to review the allotment formulas under parts B and C of the Act to determine if allotments to States accurately account for the population of individuals with developmental disabilities in each State and to determine if the factors, data elements, and measures used reflect the current purposes of the programs under parts B and C.

The enrolled bill directs the Secretary to support grants to conduct an investigation on the expansion of part B programs to individuals with severe disabilities other than developmental disabilities (that is, disabilities that are manifested after age 21). Authorized projects include a study of State Developmental Disabilities Councils that are currently using an expanded definition of eligible individuals, a study by up to five Councils that are considering an expansion of the definition, and a national project to analyze the experiences of the Councils and provide recommendations regarding expansion. We believe that an investigation into expansion of the part B programs is a prudent approach. It will allow us to discern the implications of expanding the population focus of the Act.

The bill makes several technical and conforming amendments to make the Act more "user friendly" by simplifying the language, adding headings, and grouping related provisions of the Act together. We believe these amendments are important, because the Act is used as an educational tool for individuals with developmental disabilities and their families, Council members, service providers, and policymakers at all levels.

For the foregoing reasons, we recommend that the President approve the enrolled bill.

Page 3 - The Honorable Leon E. Panetta

The provisions of the enrolled bill are described in detail in the enclosed section-by-section summary.

Sincerely,

A handwritten signature in cursive script, appearing to read "Donna E. Shalala". The signature is written in dark ink and is positioned above the printed name.

Donna E. Shalala

Enclosure

"DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL
OF RIGHTS ACT AMENDMENTS OF 1994"

SECTION-BY-SECTION SUMMARY

TITLE I -- GENERAL PROVISIONS

SEC. 101. HEADINGS AND SHORT TITLE.

Section 101 of the bill would amend the heading of title I of the Developmental Disabilities Assistance and Bill of Rights Act (the Act) to read as follows: "TITLE I -- PROGRAMS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES". The heading of part A of title I would become "PART A -- GENERAL PROVISIONS".

SEC. 102. FINDINGS AND PURPOSES.

Section 102 of the bill would amend section 101(a) of the Act to add findings as follows: (1) recognition of the right of individuals with developmental disabilities to live independently, enjoy self-determination, contribute to society, and experience full integration and inclusion in society; (2) national goals to provide such individuals with the opportunities and support to achieve their rights; (3) acknowledgment that individuals with developmental disabilities continually encounter discrimination; (4) the lack of public awareness of the capabilities and competencies of individuals with developmental disabilities; and (5) the need to ensure that individuals from racial and ethnic minority backgrounds are fully included in all activities under this Act.

Section 102 of the bill would amend section 101(b) of the Act to provide that the purpose of the Act is to assure that individuals with developmental disabilities and their families have access to culturally competent services, supports and other assistance and opportunities which promote independence, productivity, and integration and inclusion into the community, through support to State Developmental Disabilities Councils, protection and advocacy systems, university affiliated programs, and national initiatives.

Section 102 of the bill would further amend section 101 of the Act to add a new subsection (c) to provide a policy statement that includes recognition of the decision-making roles played by individuals and their families; recognition that individuals with developmental disabilities and their families have competencies, capabilities and personal goals that should be supported and encouraged; respect for individual dignity, personal preferences, and cultural differences; recognition that efforts must be made to ensure that individuals from racial and ethnic minority

backgrounds enjoy effective and meaningful opportunities for full participation in the developmental disabilities system; and acknowledgment that with education and support, communities can be responsive to the needs of individuals with developmental disabilities and their families.

SEC. 103. DEFINITIONS.

Section 103 of the bill would amend section 102 of the Act to revise and delete existing definitions and add new definitions as detailed below.

The term "American Indian Consortium" would be added and defined to mean any confederation of two or more recognized American Indian tribes, created through the official action of each participating tribe, that has a combined total resident population of 150,000 enrolled tribal members and a contiguous territory of Indian lands in two or more States.

The term "community living activities" would be revised by replacing the phrase "suitable residential arrangements" with the phrase "their family home or a home of their own with people of their choice".

The term "culturally competent" would be added and defined to mean services that are provided in a manner that is responsive to the beliefs, interpersonal styles, attitudes, language and behaviors of individuals who are receiving such services.

The definition of the term "early intervention services" would be revised to mean services provided to enhance the development of infants, toddlers, and young children with disabilities and to minimize their potential for developmental delay, and to enhance the capacity of families to meet the special needs of their infants, toddlers, and young children.

The term "integration and inclusion" would replace the term "integration" and the definition would be expanded to include "full and active participation" in the community.

A definition for the term "other organizations" would be added and would include private sector organizations and unincorporated local community groups that are interested in supporting individuals with developmental disabilities.

The term "personal assistance services" would be added and defined to mean a range of services, provided by one or more individuals, designed to assist an individual with a disability

to perform daily living activities on or off a job and to increase such individual's control in life.

The term "rehabilitation technology" would replace the term "assistive technology", and the definition would be revised to include rehabilitation engineering.

The term "service coordination activities" would replace the term "case management activities", and the definition would be revised to emphasize activities that assist and enable individuals with developmental disabilities and their families to access services, supports, and other assistance.

The definition of "State" would eliminate the Trust Territory of the Pacific, and add the Republic of Palau (pending ratification of the Compact of Free Association).

The term "State Developmental Disabilities Council" would replace the term "State Planning Council".

The definition of "supported employment" would be revised by replacing the phrase "on-going support services" with the phrase "intensive supported employment services or extended services" in the description of the type of services certain individuals with developmental disabilities need in order to perform competitive work in integrated work settings.

The definition of "system coordination and community education activities" would be expanded to include activities that "develop and support coalitions and individuals through training in self-advocacy, educating policymakers and citizen leadership skills".

The definition of "university affiliated program" would be revised to mean "a university affiliated program as established under section 152".

The term "unserved and underserved" would be added and defined to include populations such as individuals from racial and ethnic minority backgrounds, disadvantaged individuals, individuals with limited English proficiency, individuals from underserved geographic areas, and individuals with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

The terms "construction" and "title" would be eliminated.

The definition of the term "priority area activities" would be eliminated and the descriptions of activities listed in the definition would be incorporated into section 123, under responsibilities of State Developmental Disabilities Planning Councils.

The term "satellite center" would be eliminated. (The bill would repeal all provisions regarding satellite centers.)

SEC. 104. FEDERAL SHARE.

Section 104 of the bill would repeal section 103 of the Act. (These provisions are moved to parts B and D of the Act.)

SEC. 105. RECORDS AND AUDITS.

Section 105 of the bill would make technical amendments to section 104 of the Act.

SEC. 106. RECOVERY.

Section 106 of the bill would repeal section 105 of the Act. (Current law provides the right of recovery, for a period of 20 years, for facilities for which part B or part D funds were used toward construction costs. All facilities for which such funds had been used toward construction costs have been completed for more than 20 years.)

SEC. 107. STATE CONTROL OF OPERATIONS.

Section 107 of the bill would amend section 106 of the Act to replace the phrase "facility for persons" with the phrase "programs, services, and supports for individuals". It would also make technical amendments to section 106.

SEC. 108. REPORTS.

Section 108 of the bill would amend section 107(a)(4) of the Act to allow State Developmental Disabilities Councils to selectively review the annual survey reports and correction and reduction plans, within the Intermediate Care Facility for the Mentally Retarded program, and to utilize summary data. Current law requires the Councils to describe their response to significant actions taken by the State with respect to each annual survey report and each correction and reduction plan.

The bill would further amend section 107(a) by adding a requirement that the Councils include in their annual report to

the Secretary descriptions of (1) the trends and progress made in the State concerning systemic change and capacity building on behalf of individuals with developmental disabilities, with particular attention to individuals who are members of ethnic and racial minority groups or from underserved geographic areas, (2) systemic change, capacity building and advocacy activities that affect individuals with disabilities other than developmental disabilities, (3) the resources leveraged as a result of Council activities, and (4) the method by which the Council will disseminate the annual report to affected constituencies as well as the general public.

Section 108(b)(2) of the bill would amend section 107(b) of the Act to require that each protection and advocacy system include in its annual report to the Secretary a description of the system's priorities for the fiscal year, the process used to obtain public input, the nature of such input, and how such input was used.

Section 108(b)(3) of the bill would amend section 107(c) of the bill to require the Secretary to include in the annual report a description of systemic change, capacity building and advocacy activities that affect individuals with disabilities other than developmental disabilities.

Section 108 would also make numerous technical amendments to section 107 of the bill.

SEC. 109. RESPONSIBILITIES OF THE SECRETARY.

Section 109 of the bill would make technical amendments to section 108 of the Act.

SEC. 110. EMPLOYMENT OF HANDICAPPED INDIVIDUALS.

Section 110 of the bill would amend section 109 of the Act to replace the term "handicapped individuals" with the term "individuals with disabilities" and to make technical amendments.

SEC. 111. RIGHTS OF THE DEVELOPMENTALLY DISABLED.

Section 111 of the bill would make technical amendments to section 110 of the Act.

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

SEC. 201. PART HEADING.

Section 201 of the bill would amend the heading of Part B of title I of the Act to read as follows: "PART B -- FEDERAL ASSISTANCE TO STATE DEVELOPMENTAL DISABILITIES COUNCILS.".

SEC. 202. PURPOSE.

Section 202 of the bill would amend section 121 of the Act to provide that the purpose of part B is to provide for allotments to support State Developmental Disabilities Councils in each State in their efforts to promote -- through systemic change, capacity building, and advocacy -- the development of a consumer and family-centered, comprehensive system and a coordinated array of culturally competent services, supports, and other assistance for individuals with developmental disabilities.

SEC. 203. STATE PLANS.

Section 203 of the bill would amend section 122 of the Act by reorganizing existing State plan provisions. It would also revise and add provisions to section 122 as detailed below.

Comprehensive Review and Analysis.--Section 122(c)(3) would contain all of the State plan review and analysis requirements, including existing provisions. Children's mental health would be added as one of the federally assisted State programs to be reviewed by the Council. It would also include new provisions with respect to examination of the Federal priority areas and the optional State priority area, including an analysis of the barriers that impede full participation of members of unserved and underserved groups and consideration of the data collected by the State educational agency under section 618 of the Individuals with Disabilities Education Act.

Plan Objectives.--Section 122(c)(4) would contain all of the State plan objectives requirements regarding (1) the selection of priority areas, (2) a description of 1-year and 3-year objectives to be achieved, and (3) the establishment of a method for the evaluation of the plan's effectiveness in meeting the objectives.

Assurances.--Section 122(c)(5) would contain all of the State plan assurances requirements. New assurances would be added:

- o to require that service demonstration projects funded by the State Developmental Disabilities Council through the designated State agency have been explicitly authorized by such Council;
- o to specify the activities that may be funded by part B funds other than those required to be spent on priority area activities by adding other activities related to systemic change, capacity building, and advocacy to implement the responsibilities of the State Developmental Disabilities Council;
- o to require the Council to approve conflict of interest policies by October 1, 1994;
- o to assure that any direct services provided to individuals with developmental disabilities will be provided in an individualized manner, consistent with unique strengths, resources, priorities, concerns, abilities, and capabilities of an individual; and
- o to assure that the designated State agency or other office of the State does not interfere with activities of the Council.

Public Review, Submission, and Approval.--Section 122(d) would incorporate all the provisions regarding the public review, submission and approval of the State plan. Paragraph (2) would specify that the Council consults with the designated State agency on the State plan only to obtain assurances and to ensure that the plan is consistent with State law.

SEC. 204. HABILITATION PLANS.

Section 204 of the bill would repeal section 123 of the Act, which requires State assurances that each program receiving funds from the State's allotment under part B has in effect a habilitation plan for each developmentally disabled individual receiving services under that program. Instead, a provision would be included in the assurances (section 122(c)(5)(F) of the Act) that grantees providing direct services funded under part B shall provide such services in an individualized manner,

consistent with unique strengths, resources, priorities, concerns, abilities, and capabilities of an individual.

SEC. 205. COUNCILS.

Section 205 of the bill would amend section 124 of the Act by incorporating existing provisions and adding new provisions regarding the State Developmental Disabilities Council and designated State agencies as detailed below.

Council Membership.--Section 124(b) would incorporate the provisions describing Council membership, rotation, vacancies, and appointments, and add or modify the following provisions:

- o Section 124(b)(1) would require that the Governor solicit recommendations for Council membership from the non-State agency members of the Council and from organizations representing individuals with developmental disabilities and that, to the extent feasible, the Council membership be geographically representative of the State and reflect the racial and ethnic diversity of the State.
- o Section 124(b)(2) would specify that Council members serve until their replacements are appointed. It would also require Councils to notify the Governor of significant delays in appointments.
- o Section 124(b)(3) would require that individuals representing the agencies and organizations on the Council have the authority to engage in policy, planning and implementation on behalf of the agency they represent. It would also require these representatives to recuse themselves from any discussion of grants or contracts for which their department, agency, or program are grantees or applicants.
- o Sections 124(b)(4) would specify that the Council members representing individuals with developmental disabilities may include parents or guardians of children with developmental disabilities or immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves.
- o Section 124(b)(6) would specify that the representative of institutionalized individuals on the Council may be

an individual with a developmental disability who resides or previously resided in an institution. It would also waive the requirement that a representative of institutionalized individuals be a member of the Council if such an individual does not reside in that State.

Council Responsibilities.--Section 124(c) would incorporate the provisions describing the Council's responsibilities into one section, and add or modify the following provisions:

- o Section 124(c)(1) would specify that the Council serve as an advocate for individuals with developmental disabilities and conduct programs, projects and activities that carry out the purpose of the Council.
- o Section 124(c)(3) would specify that the purpose of the consultation with the designated State agency in the development of the State plan is solely to obtain State assurances and to ensure consistency of the State plan with State law.
- o Section 124(c)(4) would describe the types of strategies that Councils may use to implement the State plan, such as assisting grantees who are conducting successful demonstration activities to develop strategies for securing funding from other sources and promoting interagency collaboration and coordination of programs concerned with individuals with disabilities.
- o Section 124(c)(6) would require the Council to periodically review the appropriateness of the designated State agency and to make any recommendations for change to the Governor.
- o Section 124(c)(8) would specify the responsibilities of the Council with regard to preparing, approving and implementing a budget. A description of the types of expenditures that can be paid for by part B funds is provided. It would also specify that Federal funds may be used to hire qualified staff to carry out the functions of the Council, and that the State cannot apply hiring freezes, reductions in force, prohibitions on staff travel, or other policies that negatively affect the provision of staff support to the Council when such staff are paid from Federal funds and that would prevent the Council from carrying out its functions under this Act. It would also clarify that

the Council has the authority to direct the expenditure of funds through grants, contracts, and interagency agreements, to the extent that such agreements are considered binding contracts under State law.

- o Section 124(c)(11) would provide that nothing in this part would preclude Councils from engaging in systemic change, capacity building, and advocacy activities for individuals with disabilities other than developmental disabilities, where appropriate. It would also provide that nothing in this Act would authorize a Council to direct, control, or exercise any policy making authority or administrative authority over any program assisted under the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act.

Designated State Agency.--Section 124(d) would incorporate the provisions regarding the designated State agency into one subsection, and add or modify the following provisions:

- o Section 124(d)(2) would add a reference to the role of the State legislature in designating the State agency. It would also require that the Council provide documentation concerning the reason the Council desires a change in the designated State agency and recommend a preferred designated State agency. It would further provide that a majority of the non-State agency members of the Council may appeal to the Secretary for a review of the designation if Council independence as an advocate is not assured because of the actions or inactions of the designated State agency.
- o Section 124(d)(3) would add requirements that the designated State agency, at the request of the Council, provide timely financial reports regarding the status of expenditures, obligations, liquidation, and the Federal and non-Federal share and enter into memorandum of understanding specifying its roles and responsibilities to the Council program.
- o Section 124(d)(4) would add a provision that allows Councils (with the agreement of the designated State agency) to use or contract with agencies other than the designated State agency for needed support services.

1990 Report.--Section 124(e) would incorporate all the provisions related to the report required on January 1, 1990.

SEC. 206. STATE ALLOTMENTS.

Section 206 of the bill would amend section 125 of the Act by holding each State harmless at the higher of the fiscal year 1992 or fiscal year 1993 levels, with a ratable reduction if funds are not adequate. It would also set minimum funding levels of \$210,000 for American Samoa, Guam, the United States Virgin Islands, Northern Mariana Islands and Palau, and \$400,000 for other States if the appropriation is less than \$75,000,000. For appropriations greater than \$75,000,000, the minimum funding levels are set at \$220,000 and \$450,000 respectively.

Section 125 is further amended by adding a requirement that the Secretary include the percentage of the total appropriation for each State in the required notification of adjustments six months prior to the beginning of the fiscal year.

Section 206 would also amend section 125 to specify that State Interagency Agreements would be considered valid obligations for the purpose of obligating Federal funds allotted to the State under this part.

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

Section 207 of the bill would add a new section 125A to the Act to incorporate all the provisions related to the Federal and non-Federal share. The bill would also add two new provisions as follows:

- o Section 125A(a)(2) would waive the non-Federal share requirement in the case of projects or activities undertaken by Council members and staff to implement State plan priority activities.
- o Section 125A(c)(3) would specify that Councils may vary the non-Federal share required on a grant-by-grant basis.

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

Section 208 of the bill would amend section 126 of the Act to add a new provision specifying that payments to States for support services provided by the designated State agency may be made in advance or by way of reimbursement, and in such installments as the Secretary may determine. Section 208 of the bill would also make technical amendments to section 126 of the Act.

SEC. 209. WITHHOLDING OF PAYMENTS FOR PLANNING, ADMINISTRATION, AND SERVICES.

Section 209 of the bill would make technical amendments to section 127 of the Act.

SEC. 210. NONDUPLICATION.

Section 210 of the bill would repeal section 128 of the Act. (The provisions in section 128 of the Act would be incorporated into the new section 125A.)

SEC. 211. APPEALS BY STATES.

Section 211 of the bill would make technical amendments to section 129 of the Act.

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

Section 212 of the bill would amend section 130 of the Act to authorize appropriations of \$70,000,000 for fiscal year 1994, and such sums as may be necessary for each of fiscal years 1995 and 1996 for allotments to States to support State Developmental Disabilities Councils.

SEC. 213. REVIEW, ANALYSIS, AND REPORT.

Section 213 of the bill would direct the Secretary to (1) review and analyze the current allotment formula under parts B and C, including the factors, data elements and measures, to determine whether the formula used is consistent with the purpose of the Act, (2) identify alternative funding formulas, consistent with the purposes of the Act, and (3) report back to the Committee on Labor and Human Resources of the Senate and to the Committee on Energy and Commerce of the House of Representatives no later than October 1, 1995.

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

SEC. 301. PART HEADING.

Section 301 of the bill would amend the heading of part C of title I of the Act to read as follows: "PART C -- PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS".

SEC. 302. PURPOSE.

Section 302 of the bill would make technical amendments to section 141 of the Act.

SEC. 303. SYSTEM REQUIRED.

Section 303 of the bill would amend section 142 of the Act by reorganizing existing Protection and Advocacy (P&A) systems provisions and by adding and modifying provisions as detailed below.

System Requirements.--Section 303(b)(1) of the bill would amend section 142(a) of the Act regarding P&A system requirements as follows:

- o Section 142(a)(2) would be revised to further specify which individuals and groups shall have an opportunity to comment on the objectives, priorities and activities of the P&A system. Only non-State agency representatives of the State Developmental Disabilities Council would be given the opportunity to comment to eliminate any potential conflict of interest that may be created by allowing representatives of State agencies to comment on the priorities, objectives and activities of the P&A system. It would further be clarified that all individuals who meet the definition of developmental disability, including individuals with serious emotional disturbance, would have an opportunity to comment on the objectives, priorities and activities of such system.
- o Section 142(a)(2) of the Act currently requires that the P&A system provide an opportunity for public comment on the P&A system's coordination with specific advocacy programs. It would be revised by adding other related advocacy programs, including parent training and information centers, education ombudsman programs, and assistive technology projects, to be coordinated with the P&A system.
- o Section 142(a)(2)(H) would provide for the P&A system to have access at reasonable times and locations to individuals with developmental disabilities who reside in facilities.
- o Section 142(a)(2)(J) would require the P&A system to hire and maintain sufficient numbers and types of

qualified staff to carry out such system's function. It would also specify that the State cannot apply hiring freezes, reductions in force, prohibitions on staff travel, or other policies which negatively affect staff support or functions funded with Federal funds and would prevent the P&A system from carrying out its functions under the Act.

- o Section 142(a)(2)(K) would specify that P&A systems have the authority to educate policymakers.
- o Section 142(a)(2)(L) would specify that the P&A system, not the State, would provide assurances that the Federal funds provided to operate the P&A system will supplement and not supplant non-Federal funds.

Allotments.--Section 303(b)(2) of the bill would amend section 142(b) of the Act with respect to allotments to States for P&A systems as follows:

- o Section 142(b) of the Act would provide that allotments to States for P&A systems would be held harmless at the higher of 1992 or 1993 levels, whichever is higher, with a ratable reduction if funds are not adequate. It would also set minimum funding levels of \$80,000 for American Samoa, Guam, the United States Virgin Islands, the Northern Mariana Islands, and Palau, and \$150,000 for other States if the appropriation is less than \$20,000,000. For appropriations greater than \$20,000,000, the minimum funding levels would be set at \$107,000 and \$200,000 respectively.
- o Section 142(b) is further amended by adding a provision that would require the Secretary, in any year that the amount appropriated under section 143 exceeds \$24,500,000, to use not more than 2 percent of such amount for technical assistance to P&A systems, and to provide grants to American Indian Consortiums to provide protection and advocacy services.

Governing Board.-- Section 303(b)(4) of the bill would amend section 142(d) of the Act to require that P&A systems that are private non-profit entities with multimember governing boards, or public P&As with multimember governing boards include on their boards individuals with developmental disabilities, or family members, guardians, advocates, or authorized representatives of such individuals. The bill would also require P&A systems that are public systems and do not have a multimember

governing board or advisory board to establish an advisory council to advise the P&A system on policies or priorities to be carried out in protecting and advocating the rights of individuals with developmental disabilities. Furthermore, it would require that such advisory councils consist of a majority of individuals with developmental disabilities, or family members, guardians, advocates, or authorized representatives of such individuals.

American Indian Consortium.-- Section 303(b)(10) of the bill would add a new provision to section 142 of the Act to fund, upon application to the Secretary, American Indian consortiums to provide protection and advocacy services. It would further specify that the consortiums must coordinate activities with existing P&A systems.

Disclosure of Information.-- Section 303(b)(11) would add a new requirement to section 142 of the Act to protect the confidentiality of client records.

Public Notice of Federal On-Site Review.--Section 303(b)(11) would add a new provision to section 142 of the Act requiring the Secretary to provide advance public notice of Federal reviews, to solicit public comment on the P&A system, and to include the findings of the public comment solicitation in the report of the review.

SEC. 304. AUTHORIZATION OF APPROPRIATIONS.

Section 304 of the bill would amend section 143 of the Act to authorize appropriations of \$24,000,000 for fiscal year 1994, and such sums as necessary for each of fiscal years 1995 and 1996.

TITLE IV -- UNIVERSITY AFFILIATED PROGRAMS

SEC. 401. PART HEADING.

Section 401 of the bill would amend the heading of part D of title I to read as follows: "PART D -- UNIVERSITY AFFILIATED PROGRAMS".

SEC. 402. PURPOSE.

Section 402 of the bill would amend section 151 of the Act to revise the statement regarding the purpose and scope of university affiliated programs (UAPs). The revised purpose statement would reaffirm the interdisciplinary nature of these

programs and their unique role within universities, would make the provision of direct services optional, and would specify that dissemination of information and research findings may include the empirical validation of training and community service activities and contributions to the development of new knowledge in the field of developmental disabilities.

SEC. 403. GRANT AUTHORITY.

Section 403 of the bill would amend section 152 of the Act by reorganizing existing grant authority provisions and by adding or modifying provisions as detailed below.

Section 403(b)(1) of the bill would amend section 152(a) of the Act to provide for grant periods of up to 5 years for the administration and operation of UAPs.

Section 403(b)(2) of the bill would amend section 152(b) of the Act by providing for grant periods of up to 5 years for training projects. (Current law provides for grant periods of 3 years.) It would also update the descriptions of the training project areas, and would add two new training project areas -- training with respect to the provisions of the Americans with Disabilities Act of 1990 and training with respect to the transition of youth with developmental disabilities from school to adult life. Furthermore, it would add the following training project requirements: (1) utilization of strategies to recruit and train members from racial and ethnic minority backgrounds and individuals with disabilities and (2) addressing the issue of cultural competence in the training provided.

Section 403(b)(3) of the bill would amend section 152(c) of the Act by expanding the authority for supplemental awards to include interdisciplinary training, community training and technical assistance, community services, or dissemination of information.

Section 403(b)(4) of the bill would repeal section 152(d) of the Act related to satellite centers. (Section 152(d) authorizes the Secretary to make grants to pay part of the cost of establishing satellite centers and to pay part of their administration and operating costs.)

Section 403(b)(5) of the bill would make technical and conforming amendments to section 152(e) of the Act.

Section 403(b)(6) of the bill would repeal sections 152(f) and (g) of the Act. (These provisions would be incorporated into section 152(b)(2) and section 153(d) of the Act.)

SEC. 404. APPLICATIONS.

Section 404 of the bill amends section 153 of the Act by reorganizing existing application provisions and by adding and modifying provisions as detailed below.

Section 404(b)(1) of the bill would amend section 153(a) of the Act to require the Secretary to establish by regulation standards for university affiliated programs within 12 months of the enactment of this Act.

Section 404(b)(6) of the bill would amend section 153 of the Act by specifying that representatives from parent training and information centers may be included in the membership of the consumer advisory committee. It would further amend the consumer advisory committee provision to require the committee to reflect the racial and ethnic diversity of the geographic area served by the university affiliated program.

Section 404(b)(6) of the bill would further amend the Act by incorporating provisions related to the Federal share from section 103 of the Act into a new section 153(e).

Section 404(b)(7) of the bill would amend section 153(f) of the Act, as redesignated, to require that members of peer review groups be qualified by experience and training. Current law specifies experience or training.

SEC. 405. GRANT AWARDS.

Section 405 of the bill would amend section 154 to specify the following order of priorities for awarding funds under this part: (1) the provision of continued support at the level of \$200,000 for existing UAPs that meet the requirements under section 153, (2) the establishment of new UAPs in States that do not have UAPs, (3) the establishment of a training project in every eligible UAP, (4) the provision of an increase in the amount of training project grants from \$90,000 to \$100,000, (5) the provision of an increase in the amount of UAP grant awards from \$200,000 to \$250,000, and (6) the provision of additional training in underserved areas through additional funding to an existing UAP or through a new UAP.

Section 154 of the Act would further allow the Secretary to accept applications under section 152(a) (administration and operation) and 152(b) (training projects) in the same application when every State has a UAP and every UAP has a training project.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS AND DEFINITION.

Section 406 of the bill would add a new section 155 to the Act regarding the definition of the term "State". It would specify that for the purposes of this part, the term "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, and Guam.

Section 406 of the bill would further amend the Act by relocating the provisions with respect to authorization of appropriations (section 154) to a new section 156 of the Act and by revising such provisions as follows:

- o Section 156(a) would authorize to be appropriated under this part \$19,000,000 for fiscal year 1994, and such sums as may be necessary for each of fiscal years 1995 and 1996. Current law authorizes two line items, one for administration and operation grants and one for training projects. The bill would combine these two authorizations into one.
- o Section 156(b) would authorize the Secretary to use not more than \$300,000 for peer review and related activities.

TITLE V -- PROJECTS OF NATIONAL SIGNIFICANCE

SEC. 501. PART HEADING.

Section 501 of the bill would amend the heading of part E of title I of the Act to read as follows: "PART E -- PROJECTS OF NATIONAL SIGNIFICANCE".

SEC. 502. PURPOSE.

Section 502 of the bill would amend section 161 of the Act to expand the purpose of this part to provide for grants and contracts to support (1) transition of youth with developmental disabilities from school to adult life and (2) special pilot projects to explore the expansion of part B programs (State Developmental Disabilities Councils) to individuals with severe disabilities other than developmental disabilities.

SEC. 503. GRANT AUTHORITY.

Section 503 of the bill would amend section 162 of the Act by reorganizing existing provisions with respect to grant authority for projects of national significance and by modifying and adding provisions as detailed below.

Section 162(a)(1) would direct the Secretary to fund projects to support ongoing data collection on expenditures, residential services and employment and to develop an ongoing data collection system, including data on the accomplishments of State Developmental Disabilities Councils, protection and advocacy systems, and university affiliated programs. It would also direct the Secretary to fund projects to provide technical assistance that expands or improves the effectiveness of State Developmental Disabilities Councils, protection and advocacy systems, and university affiliated programs.

Section 162(a)(2) would specify other areas for projects of national significance that the Secretary may support through grants and contracts. These areas are as follows:

- o Information and referral.--Projects may be funded to assist States in implementing statewide information and referral and service coordination systems.
- o Educate policymakers.--Under current law, projects may be funded to educate policymakers. The bill would add a provision that this may include the training of self-advocates and family members.
- o Interagency initiatives.--Current law provides for the support of projects to pursue interagency initiatives. The bill would add a provision requiring that such initiatives enhance the ability of Federal agencies to address the needs of individuals with developmental disabilities and their families.
- o Unserved and underserved.--Projects may be funded to expand or otherwise improve opportunities for individuals with developmental disabilities from racial and ethnic minority backgrounds, to participate in programs authorized under this Act, including an increase in the involvement of students and professionals from such groups in the provision of services, supports and advocacy.

- o Transition initiatives.--Projects may be funded to conduct research and provide technical assistance to policymakers concerning the transition of youth with developmental disabilities from school to work and to adult life.

Section 162(b) would direct the Secretary to support grants to conduct an investigation on the expansion of part B programs to individuals with severe disabilities other than developmental disabilities (i.e., disabilities that are manifested after age 21). This initiative would be implemented through: (1) a national study of the Councils that are currently mandated to focus on individuals with disabilities other than developmental disabilities (to be completed by June 30, 1995), (2) a study by Councils in up to 5 additional States to study the implications of such expansion (to be completed by January 1996), and (3) a national study of the process and outcomes of the studies by Councils under (2) above.

Section 162(c) would incorporate all the application and other grant requirements for projects of national significance and would add a new provision requiring the applicant to demonstrate, where appropriate, how the project would address the needs of individuals with developmental disabilities from racial and ethnic minority backgrounds.

Section 162(d) would incorporate the provisions specifying the priorities for grants.

Section 162(e) would incorporate the provisions regarding grant payments.

Section 162(f) would direct the Secretary to publish, on an annual basis, the recipients, project descriptions and funding levels for all projects funded under this part. The bill would add the requirement that the amounts for such grants and contracts total the amount appropriated under this part for such fiscal year.

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

Section 504 of the bill would amend section 163(a) of the Act to authorize appropriations of \$4,000,000 for fiscal year 1994 and such sums for each of fiscal years 1995 and 1996.

Section 504 of the bill would amend section 163(b) of the bill to specify that the provision to fund special initiatives on the expansion of part B activities to individuals with

disabilities other than developmental disabilities shall not be construed as requiring the Secretary to supplant funding for other priorities described in this part. Section 163(b) would also require that funding to carry out the special initiatives be provided no later than May 1 of the fiscal year in which such funds become available. It would further state that the Secretary may not use funds made available under this part for program reviews required by regulation or other administrative activities. Finally, section 163(b) would provide that if technical assistance to protection and advocacy systems is provided under part C, then no funding for such activity would be provided under part E and the amount set aside for technical assistance under section 162(a)(1)(B) would be proportionally reduced.



President's Committee on Employment
of People with Disabilities

March 30, 1994

Mr. James C. Murr
Assistant Director for Legislative Reference
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Mr. Murr:

Thank you for giving us the opportunity to comment on the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994.

These Amendments are the result of considerable discussion, negotiation, cooperation, commitment and consensus building between the disability community and Members of both Chambers of the Congress, and are an excellent example of participatory democracy in action. We strongly recommend that President Clinton sign the Amendments into law.

Basically, the Amendments reauthorize, expand, modify, and strengthen the four programs of the Developmental Disabilities Assistance and Bill of Rights Act which have been designed to promote the greatest possible integration and independence of individuals with developmental disabilities into mainstream community life. The Amendments incorporate current principles about the rights, abilities, inclusion and empowerment of people with developmental disabilities. They expand consumer involvement and consumer choice. They provide for increased access to the most vulnerable of our citizens with developmental disabilities, those who reside in institutions. They initiate an outreach program to native Americans with developmental disabilities.

Basically, once enacted into law, the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994 will continue our Nation's commitment to empowering individuals with disabilities to lead integrated, independent and productive lives.

Sincerely,

A handwritten signature in cursive script that reads "Tony Coelho".

Tony Coelho
Chairman



U.S. Department of Justice

Office of the Associate Attorney General

The Associate Attorney General

Washington, D.C. 20530

March 30, 1994

Honorable Leon E. Panetta
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Mr. Panetta:

In compliance with your request, I have examined a facsimile of the enrolled bill S. 1284, the "Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1994." The Department of Justice does not object to Executive approval of this bill.

Sincerely,

A handwritten signature in dark ink, appearing to read "W. L. Hubbell", written in a cursive style.

Webster L. Hubbell
Associate Attorney General

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Conference Report

5.1284

64 pgs

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL
OF RIGHTS ACT AMENDMENTS OF 1994

MARCH 21, 1994.—Ordered to be printed

Mr. DINGELL, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany S. 1284]

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

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

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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

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

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

TITLE I—GENERAL PROVISIONS

- Sec. 101. Headings and short title.*
Sec. 102. Findings and purposes.
Sec. 103. Definitions.
Sec. 104. Federal share.
Sec. 105. Records and audits.

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Report
S. 1284

121 pgs

Calendar No. 178

103D CONGRESS }
1st Session }

SENATE

{ REPORT
103-120 }

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT AMENDMENTS OF 1993

AUGUST 3 (legislative day, June 30), 1993.—Ordered to be printed

Mr. KENNEDY, from the Committee on Labor and Human
Resources, submitted the following

REPORT

[To accompany S. 1284]

The Committee on Labor and Human Resources, to which was referred the bill (S. 1284) to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. SUMMARY OF THE BILL

On July 30, 1993, the Committee on Labor and Human Resources, by a unanimous voice vote, ordered favorably reported S. 1284, the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1993.

The bill is sponsored by Senator Tom Harkin, chairman of the Subcommittee on Disability Policy, and cosponsored by Senators Durenberger, Kennedy, Jeffords, Metzenbaum, Simon, Wellstone, Wofford, Dole, Pell, and Hatch.