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Subgroup/Office of Origin: Counsel Office

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Subseries:

OA/ID Number: 7049

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Folder Title:

John Gannon - Council on Disability

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THE WHITE HOUSE
WASHINGTON
PRIVILEGED AND CONFIDENTIAL

February 22, 1996

MEMORANDUM FOR BOB NASH
PATSY THOMASSON

FROM:

MARVIN KRISLOV 

RE:

Proposed Reappointment of John Gannon to the
National Council on Disability

I must inform you that the Office of Legal Counsel and our office believe that Gannon should not be reappointed to this position, given the governing statute. The statute provides that no member may serve more than two consecutive full three year terms, although it allows holdovers. The statute also provides that any member appointed to fill a vacancy before the expiration of his or her predecessor's term may serve only for the remainder of the term.

Gannon was recess appointed in December 1988 for a term set to expire on September 17, 1989. He held over until he was confirmed in May 1991 for a term expiring in September 1992. He then held over again until he was confirmed in April 1995 for a term expiring September 1995. He has been holding over since that time.

Gannon therefore has served three terms, although he may not have served all three years of those terms. He has, however, served seven years, and three terms ordinarily would last only six years. OLC believes that it would violate the intent of the statute to reappoint Gannon to another two year term. We therefore advise that Gannon should not be renominated. We will pull his papers unless otherwise advised.

cc: Stacy Reynolds
Cliff Mauton

February 6, 1996

MEMORANDUM FOR MARVIN KRISLOV

FROM: Chrysanthe Gussis

RE: Term Limits for Members of the National Council on Disability

I have researched requirements for term limits for members of the National Council on Disability.

When the Council was established in 1978, the accompanying reports did not contain any explanation of the term limits provided in the statute.

The only information to shed light on the requirements was contained in a 1992 House report that proposed amendments affecting the terms of Council members. The report suggests the policy behind the term limits, stating, "[t]he Committee feels that these changes are necessary to ensure that . . . terms are limited so that new people with new ideas can have an opportunity to serve on the Council." H. Rep. 102-822 at 120. The amendments were passed, but this language was omitted from the Conference report.

There appears to be no relevant caselaw.

OLC - troubled by renomination
violence to intent -

clipped & p
Carrier to Richard Shiffman /
Paul Gilborn *[Signature]*

As per my discuss. on with Paul -
too lengthy to fax.
Please review & let's discuss,
[Signature]

Privileged and Confidential

January 31, 1996

**MEMORANDUM FOR MARVIN KRISLOV
ASSOCIATE COUNSEL TO THE PRESIDENT**

FROM: Stacy Reynolds *SR*
Office of Counsel to the President

**SUBJECT: Question about Ability to Nominate John Gannon to Another Term on the
National Council on Disability**

In reviewing the old file on Mr. Gannon, I discovered that there was a question raised at that time about whether he could be reappointed to the National Council on Disability considering there was a limit of serving two full terms and he had served since 1988. In a memo by you dated July 7, 1994 (attached), it was recommended that the last nomination proceed based on the opinion of the Office of Legal Counsel that such an appointment was defensible under the statute. Such service was argued to be defensible based on the following arguments: (1) Mr. Gannon had not really served two consecutive terms given that he was a holdover; (2) the intent of the statute would not be violated since the intent was to limit service to two full terms; and (3) the additional time served by Mr. Gannon was expressly contemplated by the statutory language in that it allows for holdovers.

Although the attachment outlining the dates of Mr. Gannon's service referred to in the July 7, 1994 memo was not in the file, it is my understanding that Mr. Gannon was initially appointed to the Council in December, 1988 as a recess appointment. He served less than one year as a result of that appointment. After that, he was a holdover until he was reappointed and served another year of a term. He had been a holdover after that term expired until he was appointed to another year of a term in 1994. Now, Mr. Gannon is again a holdover from the term he completed September 17, 1995. Thus, he has served over 7 years but no full three-year terms.

The authority sheet, statute and legislative history all clearly state that no member of the Council may serve more than two consecutive full 3-year terms beginning on the date the member is sworn in on the Council. (See attached: the authority sheet, 29 U.S.C.A. § 780(b)(2), 106 STAT 4421, and House Conf. Rep. No. 102-973 at p3880-3881 in USCCAN). The House Conference Report indicates that this provision was intended as a term limit, which both the House and Senate version included but the Senate version of the term limit prevailed. Other legislative history in the file merely repeated this information.

At this point, I am not sure that an additional reappointment would be defensible. He has been appointed three times and has served more than the six consecutive years contemplated by the statute. We have called PPO to raise this question and ask them to check their files regarding his appointment. Until this issue is resolved, I am going to hold off on interviewing Mr. Gannon.

July 7, 1994

MEMORANDUM TO FILE

FROM: MARVIN KRISLOV 

RE: John Gannon

On July 6, 1994, I spoke with Dawn Johnsen and Jennifer Collins of the Office of Legal Counsel regarding this appointment. I had previously sent them the attached fax containing the dates of Gannon's service on the Council. Specifically, I asked them to address the question of whether an appointment of Gannon until 9/17/95 would violate the statute's prohibition on serving more than two full terms, since Gannon has actually been serving since December 12, 1988 (as a recess appointment)?

Their answer was that such an appointment was defensible under the statute. First, Gannon will not have served two consecutive full terms since he had served as a recess appointment for less than one year, then served as a holdover, served one year of a term, then served as a holdover, and now would serve approximately one year of a term. Second, this service would not violate the intent of the statute, which is to limit service to two full terms. Third, the additional time served by Gannon is expressly contemplated by the statutory language, since it allows for holdovers. Accordingly, they believed that his prior service should not bar Gannon from nomination to the remainder of the term.

I therefore recommend that this nomination proceed, if all other matters are in order.

NATIONAL COUNCIL ON DISABILITY

HAN

Independent

AUTHORITY: 29 U.S.C. 780
P.L. 95-602, Title I, Sec. 117, 92 Stat. 2977,
November 6, 1978
P.L. 96-88, Sec. 301(b)(3), 93 Stat. 678, October
17, 1979 (transfers to Department of Education,
effective 5/4/80, pursuant to E.O. 12212 of
5/2/80)
P.L. 98-221, Sec. 141, February 22, 1984 (makes
Council Independent, effective 2/22/84)
P.L. 99-506, Sec. 1001(e)(2), October 21, 1986
(technical change)
P.L. 100-630, Sec. 205(b), November 7, 1988 (name
change)
P.L. 102-569, Title IV, Sec. 401, October 29, 1992
(amends purpose, members qualifications, terms,
and salary)

METHOD: Nominated to the Senate

MEMBERS: FIFTEEN appointed by the President

The President shall select members of the Council after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities, and organizations interested in individuals with disabilities. The members shall be individuals with disabilities or individuals who have substantial knowledge or experience relating to disability policy or programs.

The members shall be appointed so as to be representative of handicapped individuals, national organizations concerned with the handicapped, providers and administrators of services to the handicapped, individuals engaged in conducting medical or scientific research relating to handicapped individuals, business concerns, and labor organizations.

A majority of the members shall be handicapped individuals, or parents or guardians of handicapped individuals, and shall be broadly representative of minority and other individuals and groups.

Manin Krister

Tim Clark

(CONTINUED - PAGE TWO)

NATIONAL COUNCIL ON DISABILITYIndependent

CHAIRPERSON: The President shall designate the Chairperson from among the members.

TERM: THREE YEARS, except that of the terms of members first appointed after November 6, 1978, shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

* No member may serve more than two consecutive full 3-year terms beginning on the date the member is sworn in on the Council. Members may serve after the expiration of their terms until their successors have taken office. (HOLDOVERS)

Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

SALARY: Members shall be entitled to receive compensation at a rate equal to the rate of pay for level 4 of the Senior Executive Service Schedule under 5 U.S.C. 5382, including travel time, for each day they are engaged in the performance of their duties.

Members who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Council except for compensation for travel expenses.

While away from their homes or regular places of business in the performance of services for the Council, members shall be allowed travel expenses, including per diem in lieu of subsistence.

PURPOSE: To promote policies, programs, practices, and procedures that guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability, and empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

NOTE: Prior to P.L. 100-630 of November 7, 1988, the council was entitled the "National Council on the Handicapped."

§ 780. Establishment of National Council on Disability

(a) Membership; purpose

(1)(A) There is established within the Federal Government a National Council on Disability (hereinafter in this subchapter referred to as the "National Council"), which shall be composed of fifteen members appointed by the President, by and with the advice and consent of the Senate.

(B) The President shall select members of the National Council after soliciting recommendations from representatives of—

- (i) organizations representing a broad range of individuals with disabilities; and
- (ii) organizations interested in individuals with disabilities.

(C) The members of the National Council shall be individuals with disabilities or individuals who have substantial knowledge or experience relating to disability policy or programs. The members of the National Council shall be appointed so as to be representative of individuals with disabilities, national organizations concerned with individuals with disabilities, providers and administrators of services to individuals engaged in conducting medical or scientific research relating to individuals with disabilities, business concerns, and labor organizations. A majority of the members of the National Council shall be individuals with disabilities, or parents or guardians of individuals with disabilities. The members of the National Council shall be broadly representative of minority and other individuals and groups.

(2) The purpose of the National Council is to promote policies, programs, practices, and procedures that—

- (A) guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and
- (B) empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

(b) Term of office

(1) Each member of the National Council shall serve for a term of 3 years, except that the terms of service of the members initially appointed after November 6, 1978 shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

(2)(A) No member of the Council may serve more than two consecutive full terms beginning on the date of initial service on the Council. Members may serve after the expiration of their terms until their successors have taken office.

(B) As used in this paragraph:

- (i) The term "full term" means a term of 3 years.
- (ii) The term "date of initial service" means, with respect to a member, the date on which the member is sworn in.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

(c) Chairperson; meetings

The President shall designate the Chairperson from among the members appointed to the National Council. The National Council shall meet at the call of the Chairperson, but not less often than four times each year.

[See main volume for text of (d)]

(As amended Pub.L. 99-506, Title I, § 103(d)(2)(C), Title V, § 501, Title X, § 1001(e), Oct. 21, 1986, 100 Stat. 1810, 1828, 1843; Pub.L. 100-630, Title II, § 205(b), Nov. 7, 1988, 102 Stat. 3310; Pub.L. 102-569, Title I, § 102(p)(28), Title IV, § 401, Oct. 29, 1992, 106 Stat. 4360, 4421.)

HISTORICAL AND STATUTORY NOTES

Codification

Amendment by section 103(d)(2)(C) of Pub.L. 99-506, directing substitution of "individuals with handicaps" for "handicapped individuals" wherever appearing, has been executed to sub-

sec. (a)(1) only, as the probable intent of Congress, in light of the subsequent enactment of subsec. (a)(2), containing a reference to handicapped individuals, by section 501(2) of Pub.L. 99-506.

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77f(a)) is amended—

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the results of the activities assisted by the grant. The Commissioner shall not make financial assistance available to a grant recipient for a subsequent year until the Commissioner has received and evaluated such a report from the recipient regarding the current year.

"(8) The Commissioner shall annually issue and provide for the dissemination of a report describing the findings and results of programs funded by this section.

"(9) The Federal share of the costs of the recreation programs shall be 100 percent for the first year of the grant, 75 percent for the second year, and 50 percent for the third year."

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 316(b) (29 U.S.C. 777f(b)) is amended by striking "\$2,330,000" and all that follows and inserting "such sums as may be necessary for each of the fiscal years 1993 through 1997."

Reports.

TITLE IV—NATIONAL COUNCIL ON DISABILITY

SEC. 401. ESTABLISHMENT OF NATIONAL COUNCIL ON DISABILITY.

(a) IN GENERAL.—Section 400(a) (29 U.S.C. 780(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "(1)";

(B) by inserting after the first sentence the following:

"(B) The President shall select members of the National Council after soliciting recommendations from representatives of—

"(i) organizations representing a broad range of individuals with disabilities; and

"(ii) organizations interested in individuals with disabilities.

"(C) The members of the National Council shall be individuals with disabilities or individuals who have substantial knowledge or experience relating to disability policy or programs."

(C) in the last sentence, by striking "At least five members" and inserting "A majority of the members"; and

(D) by adding at the end the following sentence: "The members of the National Council shall be broadly representative of minority and other individuals and groups."; and

(2) by striking paragraph (2) and inserting the following:

"(2) The purpose of the National Council is to promote policies, programs, practices, and procedures that—

"(A) guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and

"(B) empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society."

(b) TERMS.—Section 400(b) (29 U.S.C. 780(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) Each member of the National Council shall serve for a term of 3 years, except that the terms of service of the members initially appointed after the date of enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis."; and

(2) by striking paragraph (2) and inserting the following:
“(2)(A) No member of the Council may serve more than two consecutive full terms beginning on the date of initial service on the Council. Members may serve after the expiration of their terms until their successors have taken office.

“(B) As used in this paragraph:

“(i) The term ‘full term’ means a term of 3 years.

“(ii) The term ‘date of initial service’ means, with respect to a member, the date on which the member is sworn in.”

SEC. 402. DUTIES OF NATIONAL COUNCIL.

(a) DUTIES.—Section 401(a) (29 U.S.C. 781(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) provide advice to the Director with respect to the policies and conduct of the National Institute on Disability and Rehabilitation Research, including ways to improve research concerning individuals with disabilities and the methods of collecting and disseminating findings of such research;”

(2) by redesignating paragraphs (4), (5), (6), (7), and (8) as paragraphs (5), (6), (8), (9), and (10);

(3) by inserting after paragraph (3) the following paragraph:

“(4) provide advice regarding priorities for the activities of the Interagency Disability Coordinating Council and review the recommendations of such Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence, and productivity of individuals with disabilities;”

(4) in paragraph (5) (as so redesignated by paragraph (2) of this subsection)—

(A) in subparagraph (A), by striking “all policies, programs, and activities” and inserting “policies, programs, practices, and procedures”;

(B) in subparagraph (B), by inserting “and regulations” after “statutes”; and

(C) in the matter following subparagraph (B), by striking “activities, and statutes” and inserting “practices, procedures, statutes, and regulations”;

(5) in paragraph (6) (as so redesignated by paragraph (2) of this subsection), by striking “and activities” and all that follows and inserting “practices, and procedures facilitate or impede the promotion of the policies set forth in subparagraphs (A) and (B) of section 400(a)(2);”;

(6) by inserting after paragraph (6) (as redesignated by paragraph (2) of this subsection) the following paragraph:

“(7) gather information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);”

(7) in paragraph (8) (as so redesignated by paragraph (2) of this subsection), to read as follows:

“(8) make recommendations to the President, the Congress, the Secretary, the Director of the National Institute on Disability and Rehabilitation Research, and other officials of Federal agencies, respecting ways to better promote the policies set forth in section 400(a)(2);”

(8) in paragraph (9) (as so redesignated by paragraph (2) of this subsection), to read as follows:

“(9) not later than March 31 of each year, prepare and submit to the Congress and the President a report containing

Reports.

LEGISLATIVE HISTORY
HOUSE CONF. REP. NO. 102-973

[page 211]

identified through public and Rehabilitation Advisory Council input, (2) to establish model programs involving comprehensive, multi-disciplinary services similar to those authorized for individuals with spinal cord injuries, and (3) to establish model personal assistance and other programs.

The House recedes with an amendment deleting subparagraph (a)(2) relating to a Rehabilitation Technology Research and Resource Center.

138. SEPARATE BUDGET ACCOUNT

The Senate amendment, but not the House bill, establishes in title VIII a separate budget account for the purpose of accounting for appropriations and authorizations under this title.

The House recedes to the Senate with an amendment in the appropriate place of both sections 302 and 311 of title III that reads: "(1) Consistent with paragraph (2), and consistent with the general authority set forth in this section to fund special training initiatives, nothing in this Act shall be construed to prohibit the Commissioner from exercising authority under this title, or making available funds appropriated to carry out this title, to fund the special training initiatives described in section 803. (2) If the amount of funds appropriated for a fiscal year to carry out this section exceeds the amount of funds appropriated for the preceding fiscal year to carry out this section, adjusted by the percent by which the average of the estimated gross domestic product fixed-weight price index for that fiscal year differs from that estimated index for the preceding fiscal year, the amount of the excess shall be treated as if the excess were appropriated under title VIII." The amendment to section 311 is the same with the exception that the reference to "special training initiatives," is a reference to "special demonstration programs, projects, and activities."

NATIONAL COUNCIL ON DISABILITY

1. COMPOSITION OF THE COUNCIL

The House bill, but not the Senate amendment, specifies that the members of the Council shall be broadly representative of minority and other specified individuals and groups.

The Senate recedes.

2. PURPOSE

The Senate amendment, but not the House bill, rewrites the purpose section to make in comport with the Americans with Disabilities Act.

The House recedes.

3. TERMS

(a) The Senate amendment, but not the House bill, modifies the provisions governing the appointment of the initial council.

The House recedes.

(b) ~~Both the House bill and the Senate amendment provide for term limits.~~ The House bill, but not the Senate amendment, specifies that members serving on the date of enactment of the Reha-

bilitation Act Amendments of 1992 may be reappointed for an additional term.

The House recedes to the Senate with an amendment specifying that no member of the Council may serve more than two consecutive full terms beginning on the date of initial service on the Council. The amendment also clarifies that the term "full term" means a term of three years and the term "date of initial service" means with respect to a member, the date on which the member is sworn in.

4. DUTIES OF THE COUNCIL

(a) *Research*

The House bill specifies that advice to National Institute on Disability Rehabilitation Research should be with respect to "policies and conduct"; the Senate amendment refers to "policies and administration."

The Senate recedes.

(b) *Interagency Disability Coordinating Council*

The House bill, but not the Senate amendment, specifies that the National Council should identify priorities for the Interagency Council.

The Senate recedes to the House with an amendment that adds the following paragraph: "(4) provide advice regarding priorities for the activities of the Interagency Disability Coordinating Council and review the recommendations of such Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence, and productivity of individuals with disabilities,".

(c) *General policies and programs*

The Senate amendment, but not the House bill, inserts the phrase "policies, programs, practices, and procedures" instead of the phrase "all policies, programs, and activities."

The House recedes.

(d) *Facilitation of policies*

The Senate amendment, but not the House bill, strikes current law (section 401(a)(5)) and makes it more generic by assessing whether Federal policies and procedures facilitate or impede the promotion of policies articulated in the statement of purpose.

The House recedes.

(e) *Recommendations to policymakers*

With slightly different wording, the House bill and the Senate amendment specify the authority of the National Council to make recommendations to Federal officials.

The Senate recedes.

NATIONAL COUNCIL ON DISABILITYIndependentAUTHORITY:

29 U.S.C. 780
 P.L. 95-602, Title I, Sec. 117, 92 Stat. 2977,
 November 6, 1978
 P.L. 96-88, Sec. 301(b)(3), 93 Stat. 678, October
 17, 1979 (transfers to Department of Education,
 effective 5/4/80, pursuant to E.O. 12212 of
 5/2/80)
 P.L. 98-221, Sec. 141, February 22, 1984 (makes
 Council Independent, effective 2/22/84)
 P.L. 99-506, Sec. 1001(e)(2), October 21, 1986
 (technical change)
 P.L. 100-630, Sec. 205(b), November 7, 1988 (name
 change)
 P.L. 102-569, Title IV, Sec. 401, October 29, 1992
 (amends purpose, members qualifications, terms,
 and salary)

METHOD:

Nominated to the Senate

MEMBERS:

FIFTEEN appointed by the President

The President shall select members of the Council after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities, and organizations interested in individuals with disabilities. The members shall be individuals with disabilities or individuals who have substantial knowledge or experience relating to disability policy or programs.

The members shall be appointed so as to be representative of handicapped individuals, national organizations concerned with the handicapped, providers and administrators of services to the handicapped, individuals engaged in conducting medical or scientific research relating to handicapped individuals, business concerns, and labor organizations.

A majority of the members shall be handicapped individuals, or parents or guardians of handicapped individuals, and shall be broadly representative of minority and other individuals and groups.

(CONTINUED - PAGE TWO)

NATIONAL COUNCIL ON DISABILITYIndependent

CHAIRPERSON: The President shall designate the Chairperson from among the members.

TERM: THREE YEARS, except that of the terms of members first appointed after November 6, 1978, shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

No member may serve more than two consecutive full 3-year terms beginning on the date the member is sworn in on the Council. Members may serve after the expiration of their terms until their successors have taken office. (HOLDOVERS)

Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

SALARY: Members shall be entitled to receive compensation at a rate equal to the rate of pay for level 4 of the Senior Executive Service Schedule under 5 U.S.C. 5382, including travel time, for each day they are engaged in the performance of their duties.

Members who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Council except for compensation for travel expenses.

While away from their homes or regular places of business in the performance of services for the Council, members shall be allowed travel expenses, including per diem in lieu of subsistence.

PURPOSE: To promote policies, programs, practices, and procedures that guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability, and empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

NOTE: Prior to P.L. 100-630 of November 7, 1988, the council was entitled the "National Council on the Handicapped."

NAME	State	Term Expires	Nominated	Confirmed	Commissioned	Vice
* BRISTO, Marca ()	IL	9/17/98	8/3/95			Reappointment
* O'DAY, Bonnie ()	MD	9/17/98	8/3/95			Reappointment
* WOLTERS, Kate Pew ()	MI	9/17/98	8/3/95			Reappointment
RYAN, Shirley W. ()	IL	9/17/97	1/24/96			Reappointment

U.S. GOVERNMENT PRINTING OFFICE : 1993 O - 337-926 : QL 3

NAME	State	Term Expires	Nominated	Confirmed	Commissioned	Vice
✓ *POLLO, Lilliam Rangel ()	FL	9/17/96	12/1/94	RETURNED-12/6/94		HWWalsh, tm exp
GANNON, John A. ()	OH	9/17/95	1/5/95	4/6/95	4/7/95	Reappointment tm e
*ANDERSSON, Yerker ()	MD	9/17/96	1/5/95	4/6/95	4/7/95	ACSeggerman,
*POLLO, Lilliam rangel ()	FL	9/17/96	1/5/95	4/6/95	4/7/95	HWWalsh, tm exp
*McCRIMON, Audrey L. ()	IL	9/17/97	1/5/95	4/6/95	4/7/95	RSMueller, tm e
*ROBINSON, Debra ()	PA	9/17/97	1/5/95	4/6/95	4/7/95	AHFlack, tm exp
*UNZICKER, Rae E. ()	ND	9/17/97	1/31/95	4/6/95	4/7/95	MAMobley-Collin tm exp
*WALKER, Hughey ()	SC	9/17/96	1/31/95	12/22/95	12/26/95	EBBodron, tm ex
*YAZZIE-KING, Ela ()	AZ	9/17/96	1/31/95	4/6/95	4/7/95	LAllison, tm ex
*KEMP, John D. ()	DC	9/17/97	2/27/95	6/30/95	6/30/95	MRAether, tm ex
*ALIOTO, Michele Driscoll	CA	9/17/96	3/31/95			MBUnhjem, tm exp

* denotes disabled

U.S. GOVERNMENT PRINTING OFFICE : 1993 O - 337-926 : QL 3

NAME		State	Term Expires	Nominated	Confirmed	Commissioned	Vice
(business) BROWN, Larry, Jr.	(D)	Md.	9/17/95	1/4/93	4/14/94	4/15/94	Reappointment tm. ex
* BRISTO, Marca	(D)	IL	9/17/95	2/24/94	5/12/94	5/13/94	SSParrino, tm. ex
(KWaldrep informs the Pres. by ltr. dtd. 2/28/94 he will ret., no eff. date; ack. in ltr. dtd. 3/22/94)							
*WOLTERS, Kate Pew	(D)	MI	9/17/95	3/11/94	5/12/94	5/13/94	AKWaldrep, Jr. tm. ex
*O'Day, Bonnie	(D)	MA	9/17/95	4/11/94	6/21/94	6/22/94	GHOberle, Jr., tm. ex
✓ GANNON, John A.	(D)	OH	9/17/95	8/25/94	RETURNED	11/14/94	Reappointment
✓ *MCCRIMON, Audrey L.	(D)	IL	9/17/97	9/19/94	RETURNED	11/14/94	RSMueller, tm. ex
✓ GANNON, John A.	(D)	OH	9/17/95	12/1/94	RETURNED	12/6/94	Reappointment
✓ *McCRIMON, Audrey L.	(D)	IL	9/17/97	12/1/94	RETURNED	12/6/94	RSMueller, tm. ex
✓ *ANDERSSON, Yerker	()	MD	9/17/96	12/1/94	RETURNED	12/6/94	ACSeggerman, tm. ex
✓ *ROBINSON, Debra	()	PA	9/17/97	12/1/94	RETURNED	12/6/94	AHFlack, tm. ex

* Denotes Member either handicapped or parent/guardian of handicapped child(ren)

U.S. GOVERNMENT PRINTING OFFICE : 1993 O - 337-926 : OL 3

[illegible]

*Denotes Member either handicapped or parent/guardian of handicapped child(ren).

NATIONAL COUNCIL ON : : MBRs: FIFTEEN : (HOLDOVERS)
 DISABILITY : INDEPENDENT : TERM: 3 Years : SALARY: GS-18 WAE

NAME	State	Term Expires	Nominated	Confirmed	Commis- sioned	Vice
✓LEOPOLD, John (R)	Md.	9/17/91	10/17/90	NOT CONFIRMED- 10/28/90		BPremo, tm. exp.
✓OBERLE, George H., Jr. (R)	Okla.	9/17/92	10/24/90	NOT CONFIRMED- 10/28/90		Reappointment
✓LEOPOLD, John (R)	Md.	9/17/91	1/4/91	2/21/91	2/25/91	BPremo, tm. exp.
✓MOBLEY-COLLINS, Mary Ann (R)	Calif.	9/17/91	1/4/91	2/21/91	2/25/91	JTada, tm. exp.
✓OBERLE, George H., Jr. (R)	Okla.	9/17/92	1/4/91	3/21/91	3/25/91	Reappointment
✓ALLISON, Linda (R)	Texas	9/17/93	2/19/91	5/24/91	5/30/91	MNKoonce, tm. exp.
✓SEGGERMAN, Anne C. (R)	Conn.	9/17/93	2/19/91	11/27/91	12/2/91	LLenkowsky, tm. exp.
(MNKoonce & LLenkowsky rec'd. thanks for services ltrs. dtd. 2/20/91)						
✓GANNON, John A. (D)	Ohio	9/17/92	2/26/91	5/24/91	5/30/91	Reappointment
✓*BODRON, Ellis B. (D)	Miss.	9/17/93	7/18/91	11/14/91	11/18/91	MCHager
✓RAETHER, Mary Matthews (R)	Va.	9/17/94	7/22/91	11/27/91	12/2/91	Reappointment

*Denotes Member either handicapped or parent/guardian of handicapped child(ren).

NATIONAL COUNCIL ON : : MBRs: FIFTEEN : (HOLDOVERS)
 DISABILITY : INDEPENDENT : TERM: 3 years : SALARY: GS-18 WAE

NAME	State	Term Expires	Nominated	Confirmed	Commissioned	Vice
(JAGannon, GHOberle, Jr., & MCHager's recess appointments terminated upon the adjournment of the Senate on 11/22/89 at 4:06 a.m.)						
✓ RAETHER, Mary Matthews (R)	Va.	9/17/91	1/23/90	4/26/90	4/27/90	tm. PDZlotnick, exp.
(for the remainder of the term expiring...)						
*PARRINO, Sandra Swift (R)	N.Y.	9/17/92	1/23/90	4/26/90	4/27/90	Reappointment
(Svcs. to Hand.)						
✓*WALDREP, Alvis Kent, Jr. (R)	Texas	9/17/92	1/23/90	4/26/90	4/27/90	Reappointment
✓*FLACK, Anthony Hurlbutt (R)	Conn.	9/17/91	1/23/90	4/26/90	4/27/90	JFMills
(business)						
✓ UNHJEM, Michael B. (R)	N.Dak.	9/17/90	6/7/90	10/15/90	-----	JDart, rsg.
(business)						
✓ UNHJEM, Michael B. (R)	N.Dak.	9/17/93	6/7/90	10/15/90	10/17/90	Reappointment
(med. svc. to hand.)						
✓ WALSH, Helen Wilshire (R)	Conn.	9/17/90	6/7/90	NOT CONFIRMED- 10/28/90		tm. NFMacDougall, exp.
(med. svc. to hand.)						
✓ WALSH, Helen Wilshire (R)	Conn.	9/17/93	6/7/90	9/17/90	9/20/90	Reappointment
(business)						
✓ BROWN, Larry, Jr. (I)	Md.	9/17/92	6/7/90	9/17/90	9/20/90	TLGardner, rsg.
✓ MOBLEY-COLLINS, Mary Ann (R)	Calif.	9/17/91	9/17/90	NOT CONFIRMED- 10/28/90		JTada, tm. exp.

*Denotes Member either handicapped or parent/guardian of handicapped child(ren).

NATIONAL COUNCIL ON
THE-HANDICAPPED
DISABILITY

INDEPENDENT

MBRS: FIFTEEN
TERM: 3 years

(HOLDOVERS)

SALARY: GS-18 WAE

NAME	State	Term Expires	Nominated	Confirmed	Commis- sioned	Vice
✓ ZLOTNICK, Phyllis D. (D) (Svcs. to Hand.)	Conn.	9/17/91	6/8/88	NOT CONFIRMED		Reappointment
✓ *MULLER, Robert S. (R)	Mich.	9/17/91	7/6/88	8/11/88	8/12/88	Reappointment
✓ *PREMO, Brenda (R) (PPO advised on 9/22/88 that HJSutcliffe is deceased)	Calif.	9/17/91	7/8/88	NOT CONFIRMED		Reappointment
✓ GANNON, John A. (D) (for the remainder of the term expiring)	Ohio	9/17/89	9/27/88	NOT CONFIRMED		HJSutcliffe, deceased
✓ GANNON, John A. (D) (for the remainder of the term expiring....)	Ohio	9/17/89	RECESS	-----	12/22/88	HJSutcliffe, d'
✓ OBERLE, George H., Jr. (R) (for the remainder of the term expiring....)	Ok.	9/17/89	RECESS	-----	12/22/88	CLVash, rsgnd.
✓ HAGER, Margaret Chase (R)	Va.	9/17/90	RECESS	-----	12/22/88	JSErtheim, tm e
✓ GANNON, John A. (D) (for the remainder of the term expiring....)	Ohio	9/17/89	1/3/89	NOT CONFIRMED		Pecess
✓ OBERLE, George H., Jr. (R) (for the remainder of the term expiring....)	Okal.	9/17/89	1/3/89	NOT CONFIRMED		Recess
✓ HAGER, Margaret Chase (R)	Va.	9/17/90	1/3/89	NOT CONFIRMED		Recess
(JDart, Jr., rsgnd. 8/2/89, eff. 8/15/89; thanks for svcs. ltr. dtd. 1/3/90)						
(TLGardner rsgnd. 9/13/89; no eff. date; thanks for svcs. ltr. dtd. 1/3/90)						

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* Denotes Member either handicapped or parent/guardian of handicapped child(ren).

in par. (1) as so designated substituted provisions authorizing grants to public agencies and nonprofit private organizations to provide handicapped individuals with recreational activities and related experiences to aid in the mobility, socialization, independence and community integration of such individuals for provisions authorizing grants to public nonprofit agencies and organizations to provide such individuals with recreational activities to aid in the mobility and socialization of such individuals, added leisure education, leisure networking, leisure resource development and physical education to the list of programs authorized to be assisted under this section, and added provisions that whenever possible and appropriate, such programs and activities should be provided in settings with nonhandicapped peers, and that programs and activities under this section shall be designed to demonstrate ways in which such programs assist in maximizing the independence and integration of individuals with handicaps.

Pub.L. 99-506, § 103(d)(2)(C), directed the substitution of "individuals with handicaps" for "handicapped individuals" wherever appearing. See Codification note set out under this section.

Subsec. (a)(2). Pub.L. 99-506, § 407, added par. (2).

Subsec. (a)(3). Pub.L. 99-506, § 407, designated existing provisions in part as par. (3) and in par. (3) as so designated added provision permitting activities for children to be carried out before school.

Subsec. (b). Pub.L. 99-506, § 407, substituted provisions authorizing appropriations of

\$2,830,000 for fiscal year 1987, \$2,470,000 for fiscal year 1988, \$2,620,000 for fiscal year 1989, \$2,780,000 for fiscal year 1990, and \$2,894,000 for fiscal year 1991 for provisions authorizing appropriations of \$2,000,000 for the fiscal year 1984, \$2,100,000 for the fiscal year 1985, and \$2,200,000 for the fiscal year 1986.

Effective Date of 1992 Amendments

Amendment by Title I of Pub.L. 102-569 effective Oct. 29, 1992, see section 188(a) of Pub.L. 102-569, set out as a note under section 701 of this title.

Effective Date of 1986 Amendment

Amendment to this section by Pub.L. 99-506 to take effect Oct. 21, 1986, unless otherwise provided, see section 1006 of Pub.L. 99-506, set out as a note under section 701 of this title.

Exclusion From Coverage

Enactment of section 706(S)(C) of this title and amendment of section 794 of this title by Pub.L. 100-259 not to be construed to extend the application of the Rehabilitation Act of 1973 [this chapter] to ultimate beneficiaries of Federal financial assistance excluded from coverage before Mar. 22, 1988, see Pub.L. 100-259, § 7, Mar. 22, 1988, 102 Stat. 31, set out as a note under section 1687 of Title 20, Education.

Legislative History

For legislative history and purpose of Pub.L. 99-506, see 1986 U.S. Code Cong. and Adm. News, p. 3471. See, also, Pub.L. 102-569, 1992 U.S. Code Cong. and Adm. News, p. 3712.

SUBCHAPTER IV—NATIONAL COUNCIL ON DISABILITY

HISTORICAL AND STATUTORY NOTES

1988 Amendment

Pub.L. 100-630, Title II, § 205(a), Nov. 7, 1988, 102 Stat. 3310, substituted "on Disability" for "on the Handicapped".

§ 780. Establishment of National Council on Disability

(a) Membership; purpose

(1)(A) There is established within the Federal Government a National Council on Disability (hereinafter in this subchapter referred to as the "National Council"), which shall be composed of fifteen members appointed by the President, by and with the advice and consent of the Senate.

(B) The President shall select members of the National Council after soliciting recommendations from representatives of—

- (i) organizations representing a broad range of individuals with disabilities; and
- (ii) organizations interested in individuals with disabilities.

(C) The members of the National Council shall be individuals with disabilities or individuals who have substantial knowledge or experience relating to disability policy or programs. The members of the National Council shall be appointed so as to be representative of individuals with disabilities, national organizations concerned with individuals with disabilities, providers and administrators of services to individuals engaged in conducting medical or scientific research relating to individuals with disabilities, business concerns, and labor organizations. A majority of the members of the National Council shall be individuals with disabilities, or parents or guardians of

individuals with disabilities. The members of the National Council shall be broadly representative of minority and other individuals and groups.

(2) The purpose of the National Council is to promote policies, programs, practices, and procedures that—

(A) guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and

(B) empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

(b) Term of office

(1) Each member of the National Council shall serve for a term of 3 years, except that the terms of service of the members initially appointed after November 6, 1978 shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

(2)(A) No member of the Council may serve more than two consecutive full terms beginning on the date of initial service on the Council. Members may serve after the expiration of their terms until their successors have taken office.

(B) As used in this paragraph:

(i) The term "full term" means a term of 3 years.

(ii) The term "date of initial service" means, with respect to a member, the date on which the member is sworn in.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

(c) Chairperson; meetings

The President shall designate the Chairperson from among the members appointed to the National Council. The National Council shall meet at the call of the Chairperson, but not less often than four times each year.

[See main volume for text of (d)]

(As amended Pub.L. 99-506, Title I, § 103(d)(2)(C), Title V, § 501, Title X, § 1001(e), Oct. 21, 1986, 100 Stat. 1810, 1828, 1843; Pub.L. 100-630, Title II, § 205(b), Nov. 7, 1988, 102 Stat. 3310; Pub.L. 102-569, Title I, § 102(p)(26), Title IV, § 401, Oct. 29, 1992, 106 Stat. 4360, 4421.)

HISTORICAL AND STATUTORY NOTES

Codification

Amendment by section 103(d)(2)(C) of Pub.L. 99-506, directing substitution of "individuals with handicaps" for "handicapped individuals" wherever appearing, has been executed to subsec. (a)(1) only, as the probable intent of Congress, in light of the subsequent enactment of subsec. (a)(2), containing a reference to handicapped individuals, by section 501(2) of Pub.L. 99-506.

1992 Amendments

Subsec. (a). Pub.L. 102-569, § 102(p)(26), substituted "disabilities" for "handicaps" wherever appearing.

Subsec. (a)(1). Pub.L. 102-569, § 401(a)(1), inserted "(A)" after "(1)", added subpars. (B) and (C), and in provision following subpar. (C) substituted "A majority of the members" for "At least five members" and inserted provision that members of the National Council be broadly representative of minorities and other individuals and groups.

Subsec. (a)(2). Pub.L. 102-569, § 401(a)(2), added par. (2) and struck out former par. (2), which provided that the purpose of the Council is to promote the full integration, independence,

and productivity of individuals with handicaps in the community, schools, the workplace and all other aspects of American life.

Subsec. (b)(1). Pub.L. 102-569, § 401(b)(1), added par. (1) and struck out former par. (1), which provided that members may be reappointed and may serve after expiration of their terms until their successors have taken office.

Subsec. (b)(2). Pub.L. 102-569, § 401(b)(2), added par. (2) and struck out former par. (2), which provided that any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed be appointed only for the remainder of such term.

1988 Amendment

Heading. Pub.L. 100-630, § 205(b)(1), substituted "on Disability" for "on the Handicapped".

Subsec. (a)(1). Pub.L. 100-630, § 205(b)(2), substituted "on Disability" for "on the Handicapped", "concerned with individuals with handicaps" for "concerned with the handicapped", and "services to individuals with handicaps" for "services for the handicapped".

Subsec. (a)(2). Pub.L. 100-630, § 205(b)(3), substituted "individuals with handicaps" for "handicapped individuals".

1986 Amendment

Subsec. (a)(1). Pub.L. 99-506, § 103(d)(2)(C), in par. (1), as so designated, substituted "individuals with handicaps" for "handicapped individuals" wherever appearing. See Codification note set out above.

Pub.L. 99-506, § 501(1), designated existing provisions as par. (1).

Subsec. (a)(2). Pub.L. 99-506, § 501(2), added par. (2).

Subsec. (b)(3). Pub.L. 99-506, § 1001(e)(1), substituted "such member's predecessor" for "his predecessor".

Subsec. (c). Pub.L. 99-506, § 1001(e)(2), substituted "Chairperson" for "Chairman" wherever appearing.

Effective Date of 1992 Amendments

Amendment by Title I of Pub.L. 102-569 effective Oct. 29, 1992, see section 138(a) of Pub.L.

CODE OF FEDERAL REGULATIONS

Grants and other technical assistance, see 34 CFR 362.41 et seq.

§ 780a. Independent status of National Council on the Handicapped¹

[See main volume for text of (1) to (3)]

¹ See Change of Name note below.

HISTORICAL AND STATUTORY NOTES

Change of Name

See section 780 of this title for change of name to National Council on Disability.

NOTES OF DECISIONS

Executive agency status 1

1. Executive agency status

National Council on Disability, which was established as independent agency within the fed-

102-569, set out as a note under section 701 of this title.

Effective Date of 1986 Amendment

Amendment to this section by Pub.L. 99-506 to take effect Oct. 21, 1986, unless otherwise provided, see section 1006 of Pub.L. 99-506, set out as a note under section 701 of this title.

Exclusion From Coverage

Enactment of section 706(8)(C) of this title and amendment of section 794 of this title by Pub.L. 100-259 not to be construed to extend the application of the Rehabilitation Act of 1973 [this chapter] to ultimate beneficiaries of Federal financial assistance excluded from coverage before Mar. 22, 1988, see Pub.L. 100-259, § 7, Mar. 22, 1988, 102 Stat. 31, set out as a note under section 1687 of Title 20, Education.

Legislative History

For legislative history and purpose of Pub.L. 99-506, see 1986 U.S. Code Cong. and Adm. News, p. 3471. See, also, Pub.L. 102-569, 1992 U.S. Code Cong. and Adm. News, p. 3712.

(5) review and evaluate on a continuing basis—

(A) policies, programs, practices, and procedures concerning individuals with disabilities conducted or assisted by Federal departments and agencies, including programs established or assisted under this Act or under the Developmental Disabilities Assistance and Bill of Rights Act; and

(B) all statutes and regulations pertaining to Federal programs which assist such individuals with disabilities;

in order to assess the effectiveness of such policies, programs, practices, procedures, statutes, and regulations in meeting the needs of individuals with disabilities;

(6) assess the extent to which such policies, programs, practices, and procedures facilitate or impede the promotion of the policies set forth in subparagraphs (A) and (B) of section 780(a)(2) of this title;

(7) gather information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);

(8) make recommendations to the President, the Congress, the Secretary, the Director of the National Institute on Disability and Rehabilitation Research, and other officials of Federal agencies, respecting ways to better promote the policies set forth in section 780(a)(2) of this title;

(9) not later than March 31 of each year, prepare and submit to the Congress and the President a report containing a summary of the activities and accomplishments of the Council with respect to the duties described in paragraphs (1) through (8);

(10) provide to the Congress on a continuing basis advice, recommendations, legislative proposals, and any additional information which the Council or the Congress deems appropriate; and

(11) review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with disabilities at the Federal, State, and local levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that operate as disincentives for the individuals to seek and retain employment.

(b)(1) Not later than October 31, 1993, and annually thereafter, the National Council shall prepare and submit to the President and the appropriate committees of the Congress a report entitled "National Disability Policy: A Progress Report".

(2) The report shall assess the status of the Nation in achieving the policies set forth in section 780(a)(2) of this title, with particular focus on the new and emerging issues impacting on the lives of individuals with disabilities. The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, training, prevention, early intervention, and education. The report shall include recommendations for policy change.

(3) In determining the issues to focus on and the findings, conclusions, and recommendations to include in the report, the Council shall seek input from the public, particularly individuals with disabilities, representatives of organizations representing a broad range of individuals with disabilities, and organizations and agencies interested in individuals with disabilities.

(As amended Pub.L. 99-506, Title I, § 103(d)(2)(C), Title III, § 302(b), Title V, § 502, Oct. 21, 1986, 100 Stat. 1810, 1821, 1828; Pub.L. 100-630, Title II, § 205(c), Nov. 7, 1988, 102 Stat. 3310; Pub.L. 102-569, Title I, § 102(p)(27), Title IV, § 402, Oct. 29, 1992, 106 Stat. 4360, 4422.)

HISTORICAL AND STATUTORY NOTES

References in Text

The Americans with Disabilities Act of 1990, referred to in subsec. (a)(7), is Pub.L. 101-336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (section 12101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

Codification

Amendment by section 103(d)(2)(C) of Pub.L. 99-506, substituting "individuals with handicaps" for "handicapped individuals" wherever appearing, was not executed to subsec. (a)(4), (5) and (b), in view of subsequent amendments by section 502 of Pub.L. 99-506, which amended subsec. (a)(4) to restore references to handicapped individuals, enacted subsec. (a)(5) including references to handicapped individuals, and amended subsec. (b) eliminating references either to

Definition of "handicapped individual" for purposes of this subchapter, see section 706 of this title.

§ 780. Establishment of National Council on the Handicapped

(a) Membership

There is established within the Federal Government a National Council on the Handicapped (hereinafter in this subchapter referred to as the "National Council"), which shall be composed of fifteen members appointed by the President, by and with the advice and consent of the Senate. The members of the National Council shall be appointed so as to be representative of handicapped individuals, national organizations concerned with the handicapped, providers and administrators of services to the handicapped, individuals engaged in conducting medical or scientific research relating to handicapped individuals, business concerns, and labor organizations. At least five members of the National Council shall be handicapped individuals, or parents or guardians of handicapped individuals.

(b) Term of office

(1) Members of the National Council shall be appointed to serve for terms of three years, except that of the members first appointed—

- (A) five shall serve for terms of one year,
- (B) five shall serve for terms of two years, and
- (C) five shall serve for terms of three years,

as designated by the President at the time of appointment.

(2) Members may be reappointed and may serve after the expiration of their terms until their successors have taken office.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(c) Chairman; meetings

The President shall designate the Chairman from among the members appointed to the National Council. The National Council shall meet at the call of the Chairman, but not less often than four times each year.

(d) Quorum; vacancies

Eight members of the National Council shall constitute a quorum and any vacancy in the National Council shall not affect its power to function.

(Pub.L. 93-112, Title IV, § 400, as added Pub.L. 95-602, Title I, § 117, Nov. 6, 1978, 92 Stat. 2977, and amended Pub.L. 98-221, Title I, § 141(a), Feb. 22, 1984, 98 Stat. 26.)

Historical Note

Codification. A prior section 780, Pub.L. 93-112, Title IV, § 400, Sept. 26, 1973, 87 Stat. 385, which related to the general administrative powers of the Secretary under this chapter, was repealed by Pub.L. 95-602, Title I, § 117, Nov. 6, 1978, 92 Stat. 2977.

1984 Amendment. Subsec. (a). Pub.L. 98-221 substituted "established within the

Federal Government" for "established with the Department of Health, Education, and Welfare". See Transfer of Functions note below.

Transfer of Functions. "Department of Education" was substituted for "Department of Health, Education, and Welfare" in subsec. (a) pursuant to sections 301(a)(4)(A) and 507 of Pub.L. 96-88, which are classified to sections 3441(a)(4)(A) and 3507 of Title 20, Education.

For establishment of the National Council on the Handicapped as an independent agency within the Federal government and transfer of the functions relating to the Council which were vested in the Secretary of Education to the Chairman of the Council, see section 780a of this title.

Legislative History. For legislative history and purpose of Pub.L. 95-602, see 1978 U.S. Code Cong. and Adm. News, p. 7312. See, also, Pub.L. 98-221, 1984 U.S. Code Cong. and Adm. News, p. 15.

§ 780a. Independent status of National Council on the Handicapped

(1) Council as independent agency within Federal Government

Effective on February 22, 1984, the National Council on the Handicapped shall be an independent agency within the Federal Government and shall not be an agency within the Department of Education or any other department or agency of the United States.

(2) Transfer of functions to Council Chairman

There are transferred to the Chairman of the National Council on the Handicapped all functions relating to the Council which were vested in the Secretary of Education on the day before February 22, 1984. The Chairman of the National Council on the Handicapped shall continue to exercise all the functions under the Rehabilitation Act of 1973 [29 U.S.C.A. § 701 et seq.] or any other law or authority which the Chairman was performing before February 22, 1984.

(3) Changes in statutory and other references

References in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding to the Department of Education or the Secretary of Education with respect to functions or activities relating to the National Council on the Handicapped shall be deemed to refer to the National Council on the Handicapped or the Chairman of the National Council on the Handicapped, respectively.

(Pub.L. 98-221, Title I, § 141(b), Feb. 22, 1984, 98 Stat. 26.)

Historical Note

References in Text. The Rehabilitation Act of 1973, referred to in par. (2), is Pub.L. 93-112, Sept. 26, 1973, 87 Stat. 355, as amended, which is classified principally to this chapter (section 701 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 701 of this title and Tables volume.

Codification. Section was enacted as part of the Rehabilitation Amendments of 1984, and not as part of Rehabilitation Act of 1973, which comprises this chapter.

Legislative History. For legislative history and purpose of Pub.L. 98-221, see 1984 U.S. Code Cong. and Adm. News, p. 15.

REHABILITATION ACT AMENDMENTS OF 1992

AUGUST 10, 1992.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FORD of Michigan, from the Committee on Education and Labor, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 5482]

The Committee on Education and Labor, to whom was referred the bill (H.R. 5482) to revise and extend the programs of the Rehabilitation Act of 1973, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rehabilitation Act Amendments of 1992".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Modification in short title of Public Law 93-112.
- Sec. 4. Amendatory references.

TITLE I—GENERAL PROVISIONS

- Sec. 101. Declaration of purpose.
- Sec. 102. Rehabilitation Services Administration.
- Sec. 103. Definitions.
- Sec. 104. Audit.
- Sec. 105. Administration of the Act.
- Sec. 106. Reports.
- Sec. 107. Evaluation.
- Sec. 108. Carryover.
- Sec. 109. Information on the client assistance program.
- Sec. 110. Traditionally underserved populations.

dividuals with a disability who have been traditionally unserved or underserved by such rehabilitation and independent living services;

"(v) Means for enhancing interagency coordination among Federal and State agencies to promote the maximization of employment-related programs, services, and benefits on behalf of individuals with a disability;

"(vi) Conduct policy analyses to—

"(I) develop options for improving fiscal equity in the allotment of grants under section 110;

"(II) provide guidance on implementing the order of selection;

"(III) address the shortage of rehabilitation professionals.

"(vii) Recommendations for amendments to the Act needed to promote the provision of comprehensive rehabilitation and independent living services on behalf of individuals with a disability.

"(B) The National Commission, with respect to the requirements and issues described in paragraph (3)(A), shall issue an interim report to the President, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives not later than January 30, 1995, and a final report with recommendations for the next reauthorization of the Act to the President, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives by no later than January 30, 1997.

"(C) The National Commission shall be terminated not later than 90 days following the submission of the final report as described in paragraph (3)(B). Any funds not obligated shall be returned to the Treasury as miscellaneous receipts. Any supplies or equipment purchased for use by the National Commission shall be turned over to the General Services Administration for disposition. Any reports of the National Commission not distributed shall be turned over to the Department of Education for release upon request.

"(4)(A)(i) The National Commission may appoint a staff director to assist it in carrying out its duties. The staff director shall be appointed from among individuals who are experienced in the planning, administration, or operation of rehabilitation and independent living services or programs.

"(ii) The staff director is authorized to hire no more than ten full-time equivalent positions to assist the National Commission.

"(iii) The staff director and other personnel appointed to assist the National Commission may be appointed, without regard to the provisions of title 5, United States Code, governing appointments on the competitive service, or the provisions of Chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; provided, however, no such person so appointed shall be paid in excess of the rate authorized for SES-4 of the Senior Executive Schedule.

"(iv) The National Commission, in accordance with section 3109 of title 5, United States Code, may obtain the services of experts or consultants.

"(B) The National Commission is authorized to consult with any organization representing individuals with a disability; public and private service providers; Federal, State, and local agencies; individual experts; colleges and universities involved in the preparation of rehabilitation services personnel; and such other entities and persons as will aid the National Commission in carrying out its duties.

"(C)(i) The National Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality (including the General Accounting Office) of the United States, information and statistics to carry out the provisions of this subsection. Each such department, bureau, agency, board, commission, office, independent establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information directly to the National Commission, upon request by its Chair.

"(ii) The National Commission is authorized to procure, directly by contract or other means, such additional information as it deems necessary from universities, research institutions, foundations, State and local agencies, and other public or private agencies.

"(D) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the National Commission in carrying out its duties. The National Commission may utilize the services, personnel, information and facilities of other Federal, State, local and private agencies with or without reimbursement, upon the consent of the heads of such agencies.

"(5)(A) Members of the National Commission shall be entitled to receive compensation, at a rate equal to the rate of basic pay, payable for SES-4 of the Executive Schedule under section 5332 of title 5, United States Code, for each day (including

travel time) during which such members are engaged in the actual performance of duties vested in the National Commission. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

"(B) Members of the National Commission who are full-time officers or employees of the United States shall receive no additional pay or account of their service on the National Commissions, except for compensation for travel expenses as provided for by subparagraph (A) of this paragraph."

SEC. 410. SPECIAL RECREATIONAL PROGRAMS.

Section 316 (29 U.S.C. 777f) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in the first sentence—

(I) by striking "or all";

(II) by striking "handicapped individuals" and inserting "individuals with a disability"; and

(III) by inserting "employment," before "mobility,"; and

(ii) in the second sentence, by inserting "vocational skills development," before "leisure education,";

(B) in paragraph (2), by amending the paragraph to read as follows:

"(2)(A) Each such grant shall be no longer than 3 years and shall not be renewable.

"(B) The Commissioner shall, not later than 180 days after enactment, develop a means to objectively evaluate and encourage the replication of activities assisted by this section.

"(C) The Commissioner shall require each grantee to report annually on the results of the activities assisted by this project. The continuation of such project shall not be further approved until such a report is received and evaluated."

(C) in paragraph (3), by striking "to be made, and that" and all that follows and inserting "to be made,"; and

(D) by adding at the end the following paragraphs:

"(4) Each applicant for a grant under this section shall include in its application a description of how it will continue the service program after Federal assistance ends.

"(5) The Commissioner shall annually issue and provide for the dissemination of a report describing the findings and results of projects funded by this section."

(2) by redesignating subsection (b) as subsection (d);

(3) by inserting after subsection (a) the following subsections:

"(b) Recreation programs funded under this section shall maintain, at a minimum, the same level of services during the second and third year of the project as are provided in the initial year in which services are provided.

"(c) The Federal share of the program costs shall be 100 percent for the first year of the grant, 75 percent for the second year and 50 percent for the third year."; and

(4) in subsection (d) (as redesignated by paragraph (2) of this section)—

(A) by striking "and" after "1991,"; and

(B) by inserting after "1992" the following: ", \$2,701,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997".

TITLE V—NATIONAL COUNCIL ON DISABILITY

SEC. 501. ESTABLISHMENT OF NATIONAL COUNCIL ON DISABILITY.

Section 400 (29 U.S.C. 780) is amended—

(1) in subsection (a)(1)—

(A) by inserting after the first sentence the following sentence: "The President shall select members of the Council after soliciting recommendations from representatives of organizations representing a broad range of individuals with a disability and organizations interested in individuals with a disability,";

(B) in the third sentence (as placed pursuant to subparagraph (A) of this paragraph), by inserting after "Council shall be" the following: "individuals with a disability or have substantial knowledge or experience relating to disability policy or programs, and shall be";

(C) in the fourth sentence (as placed pursuant to subparagraph (A) of this paragraph), by striking "At least five members" and inserting "A majority of the members"; and

(D) by adding at the end the following sentence: "The members of the Council shall be broadly representative of minority and other individuals and groups, as stipulated in this paragraph."; and

(2) in paragraph (2) of subsection (b), by amending the paragraph to read as follows:

"(2) Members of the National Council who are appointed after the date of the enactment of the Rehabilitation Act Amendments of 1992 may serve for two consecutive terms, may be reappointed, and may serve after the expiration of their terms until their successors have taken office. Members serving on such date may be reappointed for an additional term."

SEC. 502. DUTIES OF NATIONAL COUNCIL.

(a) SUBSECTION (a).—Section 401(a) (29 U.S.C. 781(a)) is amended—

(1) in paragraph (1), by amending the paragraph to read as follows:

"(1) provide advice to the Director with respect to the policies and conduct of the National Institute on Disability and Rehabilitation Research, including ways to improve research concerning individuals with a disability and the methods of collecting and disseminating findings of such research;";

(2) by redesignating paragraphs (4), (5), (6), (7), and (8) as paragraphs (5), (6), (8), (9), and (10);

(3) by inserting after paragraph (3) the following paragraph:

"(4) identify priorities for the activities of the Interagency Disability Coordinating Council and review the recommendations of such Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence and productivity of individuals with a disability;";

(4) in paragraph (5)(B) (as redesignated by paragraph (2) of this subsection), by inserting "and regulations" after "statutes";

(5) by inserting after paragraph (6) (as redesignated by paragraph (2) of this subsection) the following paragraph:

"(7) establish and operate Americans with Disabilities Act Watch Centers to gather information about the implementation, effectiveness and impact of the Americans with Disabilities Act of 1990;";

(6) in paragraph (8) (as redesignated by paragraph (2) of this subsection), by amending the paragraph to read as follows:

"(8) make recommendations to the President, the Congress, the Secretary, the Director of the National Institute on Disability and Rehabilitation Research, and other officials of Federal agencies, respecting ways to better promote the policies set forth in section 400(a)(2);";

(7) in paragraph (9) (as redesignated by paragraph (2) of this subsection), by amending the paragraph to read as follows:

"(9) not later than March 31 of each year, submit to the Congress and the President a report containing a summary of the activities and accomplishments of the Council with respect to the duties described in paragraphs (1) through (8) of this subsection;";

(8) in paragraph (10) (as redesignated by paragraph (2) of this subsection), by striking the period and inserting "; and"; and

(9) by adding at the end the following paragraph:

"(11) review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with a disability at the Federal, State, and local levels and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts (and the impact of such efforts on individuals with a disability), access to health care, and policies that operate as disincentives to seek and retain employment."

(b) SUBSECTION (b).—Section 401(b) (29 U.S.C. 781(b)) is amended to read as follows:

"(b)(1) Not later than October 30, 1993, and annually thereafter, the National Council shall issue a report to the President and the Congress assessing the Nation's status in achieving the policies set forth in section 400(a)(1), with particular focus on the new and emerging issues impacting on the lives of individuals with a disability. The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, and education. The report shall include recommendations for policy change.

"(2) In determining what issues to focus on and what findings, conclusions, and recommendations to include in the report, the Council shall seek input from the

public, particularly individuals with a disability, representatives of organizations representing a broad range of individuals with a disability, and organizations and agencies interested in individuals with a disability."

SEC. 503. COMPENSATION OF NATIONAL COUNCIL MEMBERS.

Section 402(a) (29 U.S.C. 782(a)) is amended by striking "GS-18 of the General Schedule" and inserting "SES-4 of the Senior Executive Schedule".

SEC. 504. STAFF OF NATIONAL COUNCIL.

Section 403(b)(1) (29 U.S.C. 783(b)(1)) is amended by striking "GS-18 of the General Schedule" and inserting "SES-4 of the Senior Executive Schedule".

SEC. 505. ADMINISTRATIVE POWERS OF NATIONAL COUNCIL.

Section 404 (29 U.S.C. 784) is amended by adding at the end the following subsection:

"(e) The National Council may use, with the consent from those agencies comprising the Interagency Disability Coordinating Council, and as authorized in title V of this Act, such services, personnel, information and facilities as may be needed to carry out its duties under this title, with or without reimbursement to such agencies."

SEC. 506. AUTHORIZATION OF APPROPRIATIONS.

Section 405 (29 U.S.C. 785) is amended by inserting before the period the following: "and for each of the fiscal years 1993 through 1997".

TITLE VI—MISCELLANEOUS

SEC. 601. PROTECTION AND ADVOCACY OF INDIVIDUALS RIGHTS.

(a) IN GENERAL.—Title V, as amended by section 214 of this Act, is amended by inserting after section 500 the following section:

"PROTECTION AND ADVOCACY OF INDIVIDUALS RIGHTS

"SEC. 500A. (a) The purpose of this section is to support a system in each State to protect the legal and human rights of individuals with a disability who are ineligible for client assistance programs under section 500 of this title and who are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act and the Protection and Advocacy for Mentally Ill Individuals Act of 1986.

"(b) In order to receive assistance under this section, an eligible system must—

"(1) have in effect a system to protect and advocate the rights of individuals with a disability;

"(2) have the authority to pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State who are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 or client assistance programs under section 500;

"(3) provide information on and make referrals to programs and services addressing the needs of individuals with a disability in the State;

"(4) develop a statement of objectives and priorities on an annual basis and provide to the public, including individuals with a disability, and, as appropriate, their representatives, an opportunity to comment on the objectives and priorities established by, and activities of, the system, including—

"(A) the objectives and priorities for the system's activities for each year, and the rationale for the establishment of such objectives; and

"(B) the coordination with the advocacy programs set out in the client assistance program under section 500, the ombudsman program established under the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986; and

"(5) establish a grievance procedure for clients or prospective clients of the system to assure that individuals with a disability are afforded equal opportunity to access the services of the system.

"(c) For purposes of such report or for any other periodic audit, report, or evaluation of the performance of the program established under this section, the Commissioner shall not require such a program to disclose the identity of, or any other per-

to promote independence, community integration, mobility and development of social skills. These skills and experiences provide direct benefits on the job and in other settings. The program plays an important role in promoting the full participation in all aspects of society that is the cornerstone of the Americans With Disabilities Act of 1990.

The bill amends the current provision to limit each grant award to three years and requires applicants to describe how the program will continue after the grant is completed. It requires the Commissioner to develop ways to evaluate and encourage replication of project activities and requires grantees to report annually on project results. The three-year grants are not renewable, but such a limitation is not intended to preclude participation of the grantee in future projects. The Committee intends that grantees be permitted broad use of in-kind contributions toward any match requirements for Federal funds provided under this program.

TITLE V—NATIONAL COUNCIL ON DISABILITY

Establishment of the council

Section 501 of the bill includes five amendments to section 400 of the Act concerning the establishment of the National Council on Disability.

The bill specifies that the President must select members of the National Council after soliciting recommendations from representatives of (1) organizations representing a broad range of individuals with disabilities and, (2) organizations interested in individuals with disabilities.

The members of the National Council must be individuals with disabilities or individuals who have substantial knowledge or experience relating to disability policy or programs.

A majority, instead of only five of the members, must be individuals with disabilities, or parents or guardians of individuals with disabilities.

The members of the Council must be broadly representative of minorities and other individuals and groups.

Members of the Council who are appointed after the date of enactment of the Rehabilitation Act Amendments of 1992 may serve for two consecutive terms, and may serve after the expiration of their terms until their successors have taken office. Members serving on such date may be reappointed for an additional term.

The Committee feels that these changes are necessary to ensure that individuals with disabilities and minorities are well represented on the Council and that terms are limited so that new people with new ideas can have an opportunity to serve on the Council.

Duties of the council

Section 502 of the bill makes several amendments to encourage more coordination between the National Council on Disabilities, the National Institute on Disability and Rehabilitation Research (NIDRR) and the Interagency Disability Coordinating Council established under Title V of the Act. In addition, Section 502 establishes an authority for the National Council on Disability to establish and operate Americans with Disabilities Watch Centers to

gather information about the implementations, effectiveness and impact of the Americans with Disabilities Act of 1990.

These amendments authorize the Council to provide advice to the Director of the NIDRR, including ways to improve research concerning individuals with disabilities and the methods of collecting and disseminating findings of such research. It also authorizes the Council to identify priorities for the activities of the Interagency Disability Coordinating Council and review recommendations of such Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of promoting the full integration, independence and productivity of individuals with disabilities. The Council must make recommendations to the President, The Congress, the Secretary, the Director of the NIDRR, and other officials of Federal agencies, respecting ways to better promote the full integration, independence, and productivity of individuals with disabilities. In addition, the bill requires the Council to review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with disabilities at the Federal, State, and local levels and in the private sector, including the need for, and coordination of, adult services, access to personal assistance services, school reform efforts (and the impact of such efforts on individuals with disabilities), access to health care, and policies that operate as disincentives to seek and retain employment.

Not later than October 31, 1993, and annually thereafter, the Council must submit a report to the President and the Congress assessing the Nation's status in achieving the above policies, with particular focus on new and emerging issues impacting on the lives of individuals with disabilities. The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, and education and include recommendations for policy change. In determining what issues to focus upon and what findings, conclusions, and recommendations to include in the report, the Council shall seek input from the public, particularly individuals with disabilities, representatives of organizations representing a broad range of individuals with disabilities, and organizations and agencies interested in individuals with disabilities.

Sections 503 and 504 of the bill make a technical change regarding the compensation of the National Council members and the staff by striking GS-18 of the General Schedule and inserting SES-4 of the Senior Executive Schedule. This is in compliance with the Federal Pay Reform Act of 1990.

Finally, Section 505 of the bill allows the National Council to use, with the consent from those agencies comprising the Interagency Disability Coordinating Council, such services, personnel, information and facilities as may be needed to carry out its duties under this title, with or without reimbursement to such agencies.

It is the Committee's intent that these amendments will strengthen the National Council on Disability as the disability policy making arm of the Federal government so that individuals with disabilities will become fully integrated, independent and productive in the community, schools, the workplace, and all other aspects of American life.

The Commissioner is required to annually issue and disseminate a report detailing the findings and results of projects funded under this section.

Requires recreational programs funded under this section to maintain the same level of services over a 3-year project period.

Requires that each grant application include a plan for continued provision of services once Federal assistance ends.

Specifies the Federal share of program funding for each year at 100% the first year, 75% the second year and 50% the third year.

TITLE V—NATIONAL COUNCIL ON DISABILITY

Section 501—Establishment

Requires that the President select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

Stipulates that the majority of the members be individuals with disabilities. Requires that membership be broadly representative of minority and other individuals and groups.

Allows members who are serving on the date of enactment of this Act to be reappointed for an additional term.

Section 502—Duties

Expands the duties of the National Council to include: (1) identification of priorities for the activities of the Interagency Disability Coordinating Council (IDCC); (2) review the IDCC's recommendations for legislative and administrative changes; (3) establishment and operation of an ADA Watch Center to gather information on the implementation, effectiveness and impact of the Americans with Disabilities Act of 1990; (4) make recommendations to the President, Congress, and other officials of Federal agencies on ways to better promote integration and employment of individuals with disabilities, and (5) review and evaluate on a continuing basis new and emerging disability policy issues at the Federal, State, and local levels and in the private sector.

Section 505—Administrative powers

Authorizes the National Council to use the personnel, services, information, and facilities of IDCC agencies (with their consent, with or without reimbursement) as needed to carry out its duties.

TITLE VI—MISCELLANEOUS

Section 601—Protection and advocacy of individual rights

Supports a system—The Protection and Advocacy of Individual Rights (PAIR)—in each State to protect the legal and human rights of individuals with disabilities who are ineligible for the Client Assistance Program, The Developmental Disabilities Protection and Advocacy Program or the Mentally Ill Protection and Advocacy Program. Outlines eligibility requirements and funding for such systems and requires the Secretary to submit an annual report on the types of services and activities funded under this section, as

well as the number of individuals served, types of disabilities represented and issues addressed.

Provides a \$10 million appropriation trigger. (PAIR operates as a State competitive grant program until the appropriation reaches \$10 million; thereafter as a State formula grant program.)

Section 602—Employment of individuals with disabilities

Expands the membership of the Interagency Committee on Employees with Disabilities by including the Director of the Office of Personnel Management and specifies who may serve as Chair of the Interagency Committee.

Section 603—Architectural and Transportation Barriers Compliance Board

Increases the membership of the Board from 12 to 13 members and mandates that a majority of those appointed from among the general public be individuals with disabilities.

Increases the term of office of each appointed member and stipulates when terms will expire.

Expands the functions of the Board to include developing guidelines and providing technical assistance pursuant to this title or Titles II and III of the Americans with Disabilities Act of 1990 with respect to overcoming architectural, transportation and communication barriers, and promoting accessibility throughout all segments of society.

Allows the Board to enter into interagency agreements with other Federal departments or agencies for the purpose of carrying out its technical assistance responsibilities. Any funds provided to such departments or agencies for this purpose may be transferred to the Board.

Requires the Board to transmit its annual report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

Permits the Board to accept, hold, administer, and utilize gifts, devises, and bequests of property for the purpose of aiding and facilitating its functions. Requires the Board to publish regulations outlining the circumstances under which these gifts, etc. may be accepted so as not to compromise the integrity of the Board.

Section 604—Interagency Disability Coordinating Council

Changes the name of the Council and expands its duties to include development and implementation of agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication and inconsistencies among the various Federal agencies responsible for implementation and enforcement of this title; and to carry out (as directed by the National Council on Disability) studies and other activities to identify methods for overcoming barriers to integration, independence, and productivity of individuals with disabilities.

Specifies additional information to be included in the Council's annual report.

Nov. 4

Submittal with
legislative
recommendations
to Congress.

or disposal facilities. Such report shall include detailed consideration of a program to provide grants through the Commission to any State, and the advisability of such a program, for the purpose of conducting an independent State review of any proposal to develop a nuclear waste storage or disposal facility identified in subsection (a) within such State. On or before March 1, 1979, the Commission shall submit the report to the Congress including recommendations for improving the opportunities for State participation together with any necessary legislative proposals.

Approved November 6, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-1089, pt. I and pt. II, accompanying H.R. 12355 (Comm. on Interior and Insular Affairs and Comm. on Interstate and Foreign Commerce) and No. 95-1796 (Comm. of Conference).
SENATE REPORT No. 95-848 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 124 (1978):
Sept. 18, considered and passed Senate.
Oct. 3, 4, H.R. 12355 considered and passed House; passage vacated and S. 2584, amended, passed in lieu.
Oct. 14, House agreed to conference report.
Oct. 15, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 14, No. 45:
Nov. 8, Presidential statement.

92 STAT. 2954

PUBLIC LAW 95-602 [H.R. 12467]; Nov. 6, 1978

REHABILITATION COMPREHENSIVE SERVICES, AND DEVELOPMENTAL DISABILITIES AMENDMENTS OF 1978

For Legislative History of Act, see p. 7312

Act to amend the Rehabilitation Act of 1973 to extend certain programs established in such Act, to establish a community service employment program for handicapped individuals, and to provide comprehensive services for independent living for handicapped individuals, to amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the programs under that Act, and for other purposes.

As enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act be cited as the "Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978".

Rehabilitation,
Comprehensive
Services, and
Developmental
Disabilities
Amendments of
1978.
29 USC 701 note.

TITLE I—AMENDMENTS TO THE REHABILITATION ACT OF 1973

NATIONAL REHABILITATION SERVICES; AUTHORIZATION OF APPROPRIATIONS; ALLOTMENTS

SEC. 101. (a) Section 100(b) of the Rehabilitation Act of 1973 is amended—

(1) in subsection (b) (1), by adding at the end the following: "There is further authorized to be appropriated for such purpose \$808,000,000 for the fiscal year ending September 30, 1979, and the amount determined under subsection (c) for the three succeeding fiscal years but in no event shall the amount appropriated be greater than \$880,000,000 for the fiscal year ending September 30, 1980, \$945,000,000 for the fiscal year ending September 30, 1981, and \$972,000,000 for the fiscal year ending September 30, 1982.";

(2) by amending subsection (b) (2) to read as follows:

"(2) For the purpose of allotments under section 120(a) (1), there is authorized to be appropriated \$45,000,000 for the fiscal year ending September 30, 1979, \$50,000,000 for the fiscal year ending September 30, 1980, \$55,000,000 for the fiscal year ending September 30, 1981, and \$60,000,000 for the fiscal year ending September 30, 1982. There is further authorized to be appropriated for such purpose for each fiscal year such additional sums as the Congress may determine to be necessary.";

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

"(3) For the purpose of making grants to Indian tribes under part of this title, there are authorized to be appropriated for the fiscal year ending September 30, 1979, and for each of the three fiscal years thereafter, in addition to any other amounts authorized to be appropriated under this section, such sums as may be necessary for such fiscal year, but not more than an amount equal to 1 percent of the amount appropriated for that fiscal year under paragraph (1) of this section."

(b) Section 100 of the Rehabilitation Act of 1973 is amended by adding at the end the following new subsection:

"(1) No later than November 15 of each fiscal year (beginning with the fiscal year 1979), the Secretary of Labor shall publish in the Federal Register the percentage change in the price index published

Indian tribes.
Post. p. 2961.

Percentage
change in price
index,
publication in
Federal Register.

92 STAT. 2955

Application.

available to deaf individuals and to any public agency or private nonprofit organization involved in the delivery of assistance or services to deaf individuals.

"(b) No grant may be made under this section unless an application therefor is submitted to the Commissioner in such form, at such time, and in accordance with such procedures as the Commissioner may require. Such application shall—

"(1) provide assurances that the program to be conducted under this section will be operated in areas within the State which are specifically selected to provide convenient locations for the provision of services to the maximum number of deaf individuals feasible;

"(2) include a plan which describes, in sufficient detail, the manner in which interpreter referral services will be coordinated with the information and referral programs required under section 101(a)(22);

"(3) provide assurances that the program will seek to enter into contractual or other arrangements, to the extent appropriate, with private nonprofit organizations comprised of primarily hearing-impaired individuals (or private nonprofit organizations which have the primary purpose of providing assistance or services to hearing-impaired individuals) for the operation of such programs;

"(4) provide that any interpreter participating in the program shall be required to meet minimum standards established by the Commissioner; and

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

"(c) Any designated State unit receiving funds under this section may provide interpreter services, without cost, for a period of not to exceed one year to any public agency or private nonprofit organization which provides assistance to deaf individuals. At the end of such period, agencies or organizations receiving such services through referrals shall reimburse the designated State unit for the costs of such services. Funds may also be used for the purchase or rental of equipment necessary to provide assistance or services to deaf individuals.

"(d) Funds provided to any designated State unit for any program under this section shall not be used for any administrative or related costs, nor shall such funds be used for assistance to deaf individuals who are receiving rehabilitation services under any other provision of this Act."

"SPECIAL RECREATIONAL PROGRAMS

"SEC. 316. The Commissioner, subject to the provisions of section 306, shall make grants to State and public nonprofit agencies and organizations for paying part or all of the cost of initiation of recreation programs to provide handicapped individuals with recreational activities to aid in the mobility and socialization of such individuals. The activities authorized to be assisted under this section may include, but are not limited to, scouting and camping, 4-H activities, sports, music, dancing, handicrafts, art, and homemaking. No grant may be made under the provisions of this section unless the agreement with respect to such grant contains provisions to assure that, to the extent possible, existing resources will be used to carry out the activities for which the grant is to be made, and that with respect to children the activities for which the grant is to be made will be conducted after school.

Nov. 6

NATIONAL COUNCIL ON THE HANDICAPPED

SEC. 117. The Rehabilitation of 1973 is amended by striking out title 29 USC 701 note, and inserting in lieu thereof the following new title:

TITLE IV—NATIONAL COUNCIL ON THE HANDICAPPED

ESTABLISHMENT OF NATIONAL COUNCIL ON THE HANDICAPPED

"SEC. 400. (a) There is established with the Department of Health, Education, and Welfare a National Council on the Handicapped Membership. 29 USC 780. hereinafter in this title referred to as the 'National Council'), which shall be composed of fifteen members appointed by the President, by and with the advice and consent of the Senate. The members of the National Council shall be appointed so as to be representative of handicapped individuals, national organizations concerned with the handicapped, providers and administrators of services to the handicapped, individuals engaged in conducting medical or scientific research relating to handicapped individuals, business concerns, and labor organizations. At least five members of the National Council shall be handicapped individuals, or parents or guardians of handicapped individuals.

"(b) (1) Members of the National Council shall be appointed to Term. serve for terms of three years, except that of the members first appointed—

"(A) five shall serve for terms of one year,

"(B) five shall serve for terms of two years, and

"(C) five shall serve for terms of three years,

as designated by the President at the time of appointment.

"(2) Members may be reappointed and may serve after the expiration of their terms until their successors have taken office.

"(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

"(c) The President shall designate the Chairman from among the members appointed to the National Council. The National Council shall meet at the call of the Chairman, but not less often than four times each year.

"(d) Eight members of the National Council shall constitute a quorum and any vacancy in the National Council shall not affect its power to function.

"DUTIES OF NATIONAL COUNCIL

"SEC. 401. The National Council shall—

"(1) establish general policies for, and review the operation of, the National Institute of Handicapped Research;

"(2) provide advice to the Commissioner with respect to the policies of and conduct of the Rehabilitation Services Administration;

"(3) advise the Commissioner, the appropriate Assistant Secretary of the Department of Health, Education, and Welfare, and the Director of the National Institute of Handicapped Research on the development of the programs to be carried out under this Act;

Grants.
29 USC 777f.

REHABILITATION ACT AMENDMENTS OF 1992

P.L. 102-569, see page 106 Stat. 4344

DATES OF CONSIDERATION AND PASSAGE

House: August 10, October 2, 1992

Senate: August 12, October 5, 1992

Cong. Record Vol. 138 (1992)

✓ House Report (Education and Labor Committee) No. 102-822,
Aug. 10, 1992

[To accompany H.R. 5482]

✓ Senate Report (Labor and Human Resources Committee)
No. 102-357, Aug. 3, 1992
[To accompany S. 3065]

✓ House Conference Report No. 102-973, Oct. 1, 1992
[To accompany H.R. 5482]

The House bill was passed in lieu of the Senate bill after amending its language to contain much of the text of the Senate bill. The Senate Report (this page) is set out below. The House Conference Report (page 3822) and the President's Signing Statement (page 3919) follow.

SENATE REPORT NO. 102-357

[page 1]

The Committee on Labor and Human Resources, to which was referred the bill (S. 3065) to revise and extend the Rehabilitation Act of 1973, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

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I. INTRODUCTION

On July 29, 1992, the Committee on Labor and Human Resources, by a unanimous voice vote, ordered favorably reported S. 3065, the Rehabilitation Act Amendments of 1992.

The bill is sponsored by Senator Tom Harkin, chairman of the Subcommittee on Disability Policy, and cosponsored by Senators Durenberger, Kennedy, Hatch, Dole, Simon, Jeffords, Adams, Kassebaum, Bingaman, Dodd, Pell, Wellstone, Cochran, Metzenbaum, Coats, and Mikulski.

As approved by the Committee on Labor and Human Resources, S. 3065 reauthorizes the Rehabilitation Act of 1973, the Helen

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[page 2]

Keller National Center Act, and makes technical and conforming changes to other related programs.

The purposes of this legislation are:

(1) to ensure that the precepts and values embedded in the Americans with Disabilities Act are reflected in the Rehabilitation Act of 1973;

(2) to improve the functioning of the vocational rehabilitation system by streamlining access, ensuring appropriate access for those individuals with the most severe disabilities, improving interagency working relationships and cooperation, improving relationships with business, industry, and labor, and providing for a comprehensive system of personnel development;

(3) to promote a philosophy of independent living in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities and the integration and full inclusion of individuals with disabilities into the mainstream of American society by supporting statewide networks of centers for independent living and assisting states to provide, expand, and improve the provision of independent living services;

(4) to increase consumer choice and involvement at the individual level (individualized written rehabilitation program) and system level (creation of consumer councils);

(5) to increase accountability and quality;

(6) to ensure that basic formula grant programs remain state-of-the-art by ensuring that the discretionary programs of research, demonstrations, and training respond to identified needs; and

(7) to update terminology.

II. BACKGROUND AND NEED FOR LEGISLATION

LEGISLATIVE HISTORY

The Rehabilitation Act Amendments of 1992 revise and extend the Rehabilitation Act of 1973. Section 2 of the Act specifies that the purpose of the Act is to develop and implement, through research, training, services, and the guarantee of equal opportunity, comprehensive and coordinated programs of vocational rehabilitation and independent living for individuals with disabilities in order to maximize their employment, independence, and integration into the workplace and the community.

The Rehabilitation Act of 1973 includes seven titles. Sections 2 through 18 of the Act include general provisions and definitions. Title I of the Act includes the State formula grant program for providing vocational rehabilitation services to individuals with disabilities with the goal of competitive employment. This State-Federal program of vocational rehabilitation represents, over a span of 72 years, a partnership in providing services to individuals with disabilities. The law, as passed in 1973, requires that in the event that services cannot be provided to all eligible individuals with disabilities who apply, States must give priority to applicants with the most severe disabilities.

of rehabilitation training including projects for training of rehabilitation personnel, impartial hearing officers, and individuals with disabilities and their families.

Section 304. This section amends section 303 (as redesignated by section 301 of the bill) of the Act to make several technical and conforming changes.

Section 305. This section amends section 304 (as redesignated by section 301 of the bill) of the Act to make several technical and conforming changes.

Section 306. This section amends section 305 of the Act to make technical and conforming changes.

Section 307. This section amends section 306 of the Act to make technical and conforming changes.

Section 308. This section amends section 310 of the Act to authorize "such sums" as may be necessary to carry out part B, with the exception of sections 311(d), 311(e), 312, 316, and 317.

Section 309. This section amends section 311 of the Act add authority for projects to increase client choice, to identify innovative methods to evaluate the performance of vocational rehabilitation counselors, to provide services to facilitate the transition from rehabilitation hospital, nursing home or comparable program into independent living programs in the community, and to improve the management and service delivery systems of the vocational rehabilitation programs authorized under the Act.

Section 310. This section amends section 312 of the Act to add nonprofit agencies working in collaboration with the State agency as potential grantees for programs regarding migratory workers with disabilities and to transfer the authorization of appropriations for "such sums as may be necessary to carry out this section" from section 310 of the Act.

Section 311. This section amends section 316 of the Act to add certain requirements for the special recreational programs and to specify the Federal match of 90 percent for the first year of the grant, 75 percent for the second year and 50 percent for the third year. Applicants for grants must describe how they will make their findings generally available and how they will continue the program after the grant ends.

Section 312. This section regarding independent living services for older individuals who are blind is transferred from title VII, part C of the Act. This section requires that these services include the independent living core services and that certain assurance be included in the grant application for funds under this section.

TITLE IV—NATIONAL COUNCIL ON DISABILITY

Section 401. This section amends section 400 of the Act in regard to the selection of members of the National Council on Disability, the make-up of the Council, and the terms of the members of the Council.

Section 402. This section amends section 401 of the Act regarding the duties of the National Council on Disability.

Section 403. This section amends section 402 of the Act to make and technical and conforming change.

Section 404. This section amends section 403 of the Act to eliminate the cap on the number of staff positions and to make a technical and conforming change.

Section 405. This section amends section 405 of the Act to authorize such sums as may be necessary to carry out this section for fiscal years 1993 through 1997.

TITLE V—ACCESS

Section 501. This section amends title V of the Act to change the title heading to "Title V-ACCESS."

Section 502. This section repeals section 500 of the Act.

Section 503. This section amends section 501 of the Act to make technical and conforming changes and to clarify the standards to be used to determine whether there has been a violation under this section.

Section 504. This section amends section 502 of the Act to make technical and conforming changes and to clarify the Architectural and Transportation Barriers Compliance Board's functions, inter-agency agreements, and reports.

Section 505. This section amends section 503 of the Act relating to employment under federal contract to make several technical and conforming changes and to clarify the standards to be used to determine whether there has been a violation under this section.

Section 506. This section amends section 504 of the Act on non-discrimination under federal grants and programs to clarify the standards to be used to determine whether there has been a violation under this section.

Section 507. This section amends section 506 of the Act to make several technical and conforming changes.

Section 508. This section amends section 507 of the Act to make technical and conforming changes.

Section 509. This section amends section 508 of the Act to update this section including changing the title to "Electronic and information technology accessibility guidelines."

TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

Section 601. This section amends section 611 of the Act to make technical and conforming changes.

Section 602. This section amends section 613 of the Act to make a conforming change.

Section 603. This section amends section 616 of the Act to make a conforming change.

Section 604. This section amends section 617 of the Act to authorize such sums are necessary for fiscal years 1993 through 1997.

Section 605. This section amends section 621 of the Act relating to Projects with Industry to make technical and conforming changes, to clarify eligibility for PWI services, and to specify that PWI grant agreements may include the provision of technical assistance to other PWIs or prospective PWIs. Authority for projects for currently employed workers with disabilities who need new or upgraded skills is also included.

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REHABILITATION, COMPREHENSIVE SERVICES, AND
DEVELOPMENTAL DISABILITIES AMEND-
MENTS OF 1978

P.L. 95-602, see page 92 Stat. 2955

✓ House Report (Education and Labor Committee) No. 95-1149,
May 13, 1978 [To accompany H.R. 12467]

✓ House Report (Interstate and Foreign Commerce Committee)
No. 95-1188, May 15, 1978 [To accompany H.R. 12326]

Senate Report (Human Resources Committee) No. 95-890,
May 15, 1978 [To accompany S. 2600]

✓ House Conference Report No. 95-1780, Oct. 13, 1978
[To accompany H.R. 12467]

Cong. Record Vol. 124 (1978)

DATES OF CONSIDERATION AND PASSAGE

House May 16, September 19, 26, October 15, 1978

Senate September 21, October 15, 1978

The House Reports (this page, p. 7355) and the House Conference
Report (p. 7375) are set out.

HOUSE REPORT NO. 95-1149

[page 1]

The Committee on Education and Labor, to whom was referred the bill (H.R. 12467) to amend the Rehabilitation Act of 1973 to extend certain programs established in such act, to establish a community service employment program for handicapped individuals, to provide for independent living rehabilitation services for the severely handicapped, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

* * * * *

PURPOSE

The purpose of H.R. 12467, as amended is to extend and strengthen programs authorized under the Rehabilitation Act of 1973, as amended.

Specifically, H.R. 12467, as amended, contains the following provisions:

(1) Creates a permanent authorization of appropriations for the basic Federal-State vocational rehabilitation program, with an authorization of \$808 million for fiscal year 1979 and authorizations in subsequent fiscal years based on increases in the Consumer Price Index.

(2) Increases the minimum state allotment for the basic State vocational rehabilitation program.

(3) Establishes a program of direct grants to American Indian tribes for both demonstrating and providing rehabilitation programs.

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(4) Establishes state information and referral programs to assist handicapped individuals.

(5) Creates an independent living program.

(6) Creates a National Institute of Handicapped Research.

(7) Establishes a National Council on the Handicapped.

(8) Creates a Community Service Employment Program for handicapped individuals in the Department of Labor.

(9) Provides for projects with industries and creates a program to assist handicapped individuals in establishing their own businesses.

(10) Strengthens the Architectural and Transportation Barriers Compliance Board.

(11) Authorizes the Secretary of Health, Education and Welfare to provide assistance in removing architectural, transportation and communications barriers.

(12) Permits courts to award attorney's fees to successful parties in judicial actions to enforce the provisions of title V.

(13) Provides authority for research cutting across multiple and interrelated needs of the elderly, the handicapped, children and youth, and families.

(14) Encourages development and utilization of rehabilitation facilities.

(15) Authorizes creation of Comprehensive Rehabilitation Centers to provide a broad range of services to the community and to handicapped individuals, including information and referral services, counseling services, job placement, health, education, social, and recreational services.

(16) Abolishes the Office for Handicapped Individuals and transfers its functions to the Commissioner of the Rehabilitation Services Administration.

(17) Permits expansion of the client assistance program.

(18) Calls for special projects, services, and training for deaf and blind individuals.

BACKGROUND

STATE-FEDERAL PROGRAM

The State-Federal program of vocational rehabilitation has represented, over a span of 58 years, a true partnership in serving and rehabilitating handicapped individuals. The basic objective of the State-Federal services program is to provide rehabilitation services which assist physically and mentally handicapped individuals to become employable. The role of the Federal government in this joint effort is one of planning and leadership. It serves as a focal point on issues. The role includes the provision of Federal funds to each State, with monies being allocated on a formula basis with a matching rate of 80 percent Federal and 20 percent non-Federal.

In fiscal year 1977, a total of 291,302 handicapped persons were rehabilitated. Of this number, 127,522, or 43.8 percent were classified as being severely handicapped. The percentage and the number of severely disabled persons among the rehabilitants has continued to rise each year since 1974, the first full year of operation under the Rehabilitation Act of 1973 which directed that priority be given to severely disabled individuals.

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utilize the programs in the Rehabilitation Act as amended by this bill. To further this objective the committee recommends a number of amendments to the existing law. Section 303 has been rewritten to provide for a "full faith and credit" Federal mortgage insurance, and a 3-percent interest subsidy. The program is patterned on that contained in title XVI of the Public Health Services Act. The committee expects this program to be made available to facilities promptly. In addition, the bill extends the authorization for construction grants and increases the authorization for innovation and expansion grants under title I. As a means of focusing attention on the needs of facilities and generating regular assessments of the role and function of facilities in the rehabilitation process, the bill adds new language to the State plans requirements in section 101 to include an assessment of the capacity and condition of rehabilitation facilities, plans for improving such facilities, and policies for the use thereof by the State agency. Section 101 would also be amended to specifically recognize the desirability of annual operating agreements between State agencies and facilities to add stability to planning and programing.

It has also come to the committee's attention that section 10 of the Rehabilitation Act is being construed to reduce fees for services paid by State agencies to rehabilitation facilities which have received establishment grants. This interpretation has the effect of nullifying, in whole or in part, the value of such grants as "seed money" to create or expand services. The bill would amend section 10 to specify that fees for service should not be automatically reduced by receipt of grants. The amended language would continue the prohibition against double funding costs from grants or using federal funds for matching. This amendment will not restrict the authority and discretion of State agencies to negotiate fees for services provided by rehabilitation facilities.

SPECIAL PROJECTS

Furthermore, H.R. 12467 as amended provides authority for expansion of interpreter services for deaf individuals by giving the Commissioner expanded authority in those areas. Under such authority the Commissioner could establish, through State vocational rehabilitation agencies, programs of interpreter referral services in each State. Such services would be designed to provide a pool of available interpreters for specific geographical areas.

Similarly, the Commissioner would be authorized to make grants to the State agency, designated under section 121(a)(2)(A), to provide reading services to blind persons who are not otherwise eligible for such services through State and Federal programs, and to expand the quality and scope of reading services available to blind persons by assuring that, to the maximum extent possible, the services provided pursuant to this act will meet the individual reading needs of blind persons in elementary, secondary, and postsecondary education.

COMPREHENSIVE REHABILITATION CENTERS

Section 116 authorizes a new program of Comprehensive Rehabilitation Centers. Comprehensive Rehabilitation Centers would have the responsibility of providing a broad range of services to handicapped

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individuals including information and referral, counseling services, job placement, health, education, social, and recreational services, as well as facilities for such recreational activities. In addition, the Comprehensive Rehabilitation Centers would provide information and technical assistance to local government units and other public and private nonprofit agencies to assist those entities in attempting to comply with the Rehabilitation Act, particularly section 504 which prohibits discrimination on the basis of a handicap. Grants for these purposes would be made to any State vocational rehabilitation agency, and such State agency could make grants and contracts to units of local government or agencies or organizations to pay a maximum of 80 percent of the costs of facilities, operational expenses, and program expenses including professional and technical personnel. State vocational rehabilitation agencies could carry out these activities without benefit of such contracting arrangements provided that not more than 80 percent of the cost of providing any such center could be provided from funds under this section.

In establishing comprehensive rehabilitation centers, the committee expects that the centers will provide a range of services to handicapped individuals. One example of a program that could be eligible for funding under this section would be the Vinland National Center in Minnesota.

The Center would be a unique and national model, a resource available to persons who have undergone the traditional rehabilitation process and who would benefit further from a regimen of physical activity and health care skill training. Handicapped persons would be taught to participate in strenuous health and sports activities. The Center will use the four seasons to provide learning experiences in all types of sports activities from swimming to skiing. Concurrently with athletic training, the handicapped would learn how to take better care of their own health. Life enrichment programs in the areas of art, culture, socialization, and personal development would also be incorporated in the program to give handicapped persons the psychological impetus needed for full participation in society. The education and training programs of persons to work with the handicapped would be integral parts of the Center, along with a research and information component. The benefits to the handicapped and to society from this type of program have been shown in a very limited way, but need to be demonstrated in this proposal pilot project with its provision for research and dissemination.

It is this type of comprehensive approach in all areas on which the committee expects to build.

The committee intends that these comprehensive centers serve as a source not only for the handicapped but to the community at large. They should serve as a mechanism for greater understanding by educating both the handicapped and the nonhandicapped about each other. Potentially, these centers could provide communities with a new and meaningful experience.

NATIONAL COUNCIL ON THE HANDICAPPED

H.R. 12467, as amended, would establish within the Department of Health, Education, and Welfare a National Council on the Handi-

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capped to be composed of 20 members appointed by the President with the advice and consent of the Senate, as follows:

At least five members would be administrators of State vocational rehabilitation programs;

At least five members would be persons engaged in conducting medical or scientific rehabilitation research;

At least five members would be persons who are handicapped;

The remaining five would be persons who are knowledgeable with respect to the problems of handicapped individuals and who have an understanding of the programs funded under this act.

A member would serve a 3 year-term with a five-member turnover each year. The President would designate a Chairman, and the National Council would meet at least six times a year. The duties of the National Council would be to:

Establish general policies for, and review the conduct of, the Rehabilitation Services Administration and the National Institute of Rehabilitation Research;

Advise the Commissioner, the appropriate Assistant Secretary of HEW, and the Director of the National Institute of Rehabilitation Research on the development of programs to be carried out under this act.

Make recommendations to the Secretary, the Commissioner, and the Director of the National Institute of Rehabilitation Research respecting ways to improve rehabilitation research, the administration of rehabilitation services, and the methods of collecting and disseminating the findings of such research facilitating their implementation;

Review all applications for financial assistance relating client assistance projects, Indian demonstration projects, research and training under title II, and supplemental services under title III and make recommendations for approval or disapproval;

Submit an annual report to the Secretary, the Congress, and the President containing a statement on the current status of rehabilitation research, an analysis of the activities of the Rehabilitation Services Administration, and the National Institute of Rehabilitation Research, and recommendations related to these agencies.

The functions of the Council would not be merely advisory. It would have important responsibilities in reviewing both policies and grant awards of the Rehabilitation Services Administration and the National Institute of Rehabilitation Research.

With programs affecting handicapped individuals fragmented across many Federal departments and agencies, the committee feels it is necessary to monitor and attempt to coordinate those programs.

This is presently not being done and consequently there are several different definitions of disability and handicapped individuals in our Federal programs. Some programs even work at cross purposes. While

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one encourages employment, another may provide a wide range of benefits for the unemployed which are difficult for a low wage earner to resist. The Council would try to bring order into this area through its recommendations, its public hearings and its findings.

The need for such a Council is strongly supported by the recommendations of the recent White House Conference on Handicapped Individuals.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Among a number of significant changes to the present title V of the Rehabilitation Act, the committee has strengthened and upgraded the Architectural and Transportation Barriers Compliance Board. The bill provides for the Presidential appointment of nine handicapped individuals to the Board. Under present law, the Secretary of Health, Education, and Welfare is authorized to appoint a Consumer Advisory Panel to the Board composed of a majority of handicapped individuals. The remaining members of the Board, numbering eight, would remain the same as under the present act.

The Board is also authorized to make grants to State vocational rehabilitation agencies for the purposes of conducting studies to provide cost assessments for the removal of architectural, transportation, and communication barriers confronting the handicapped. Following these studies, the Board is required to submit a report to the President and to the Congress with recommendations regarding the amount of money required by each State in order to provide handicapped individuals with full access to programs receiving Federal assistance.

The bill also authorizes the Board to provide to the extent practical, technical assistance in assisting the public and complying with the provisions of this act as it relates to architectural, transportation and communication barriers. The bill also grants authority to the Board to sue and be sued in its name and to be responsible for its own legal counsel in any court in the United States. The committee, in order to further strengthen the Board, has provided authority for staff and for operations.

The Architectural and Transportation Barriers Compliance Board and the Office of Civil Rights, Department of Health, Education, and Welfare, must coordinate very closely to assure that their shared compliance responsibilities under section 504 are effectively implemented. To accomplish this it is expected that a definitive memorandum of understanding will be developed between the two organizations which will at a minimum provide for the necessary procedural steps for cross referral of complaints, coordinated effort on investigations of complaints involving the jurisdiction of both offices and other matters which affect efficient, effective enforcement.

It is expected that the formal relationship between the ATBCB and the Office of Civil Rights will serve as a model for the development of similar understandings and procedural arrangements between the ATBCB and the other Federal agencies involved in section 504. The committee will maintain close oversight regarding these arrangements to insure that shared compliance responsibilities are effectively and efficiently implemented.

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Conference agreement

The Senate recedes with an amendment changing from three to two percent the net effective interest rate reduction to be achieved by these mortgage loans and reducing the total maximum amount of outstanding loans to \$100 million.

TRAINING

1. General Training

House bill

The House bill provided that the Commissioner would administer all professional training activities under the Act. It authorized the training of personnel specializing in job development and job placement for handicapped individuals. It provided that grants could be made available to train personnel in the fields of medical, social, and psychological rehabilitation. It authorized the Commissioner to provide grants to undergraduate schools of medicine to support programs in rehabilitation medicine in order to orient medical students to the care of handicapped individuals. It required the Commissioner to develop a long-term rehabilitation manpower plan designed to target resources of areas of personnel shortages.

Senate amendment

The Senate amendment required the Secretary to measure the impact as well as evaluate training programs.

Conference agreement

The Senate recedes on all training activities, except those relating to undergraduate programs in rehabilitation medicine where the House recedes.

2. Deaf Interpreter Training Programs

House bill

The House bill authorized the Secretary to establish 12 programs for training interpreters for deaf individuals. It also required that persons trained meet minimum standards established by the Secretary.

Senate amendment

The Senate amendment was similar except that it authorized the Secretary, through the Office of Information and Resources for the Handicapped to administer the programs.

Additionally, the Senate amendment provided that interpreters who provide services required under the Education of the Handicapped Act may be trained solely through funds for in-service training drawn from appropriations under the Education of the Handicapped Act, and that any interpreter trained should meet minimum standards established by the Registry for interpreters for the Deaf.

The Senate amendment also named six specific institutions which will receive these training funds.

Conference agreement

The House recedes with an amendment which deletes mention of certification by the Registry of Interpreters for the Deaf and requests that the Secretary be given authority to set minimum standards,

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deletes provisions relating to satellite centers which actually provide interpreter services. These services could be provided under other provisions in both bills and nothing would bar a training institution from entering into a contract with a State agency to provide such interpreter services.

The House amendment also deletes the specific citation of the following six institutions which would receive funding: Gallaudet College in Washington, District of Columbia; Saint Paul Technical Vocational Institute in Saint Paul, Minnesota; California State University in Northridge, California; Seattle Central Community College in Seattle, Washington; Delgado College in New Orleans, Louisiana; and the National Technical Institute for the Deaf in Rochester, New York. The conferees wish to make clear that the striking of references to these institutions should not be interpreted in any way to reflect adversely on the efforts of these institutions. Indeed, the conferees would encourage these institutions to compete for training grants and would urge that these institutions, as well as other institutions with ongoing programs of proven worth in the training of qualified interpreters, be given priority consideration for such training grants rather than the establishment of new training programs.

3. Authorizations

House bill

The House bill authorized \$35 million for fiscal year 1979, \$40 million for fiscal year 1980, \$45 million for fiscal year 1981, \$55 million for fiscal year 1982, \$65 million for fiscal year 1983, and for each such fiscal year such additional sums as may be necessary.

Senate bill

The Senate amendment authorized \$34 million for fiscal year 1979, \$44 million for fiscal year 1980 and \$51 million for fiscal year 1981.

It also authorized \$8 million for each of the next three fiscal years for training interpreters for deaf individuals.

Conference agreement

The conference agreement is a substitute which authorizes \$34 million for fiscal year 1979, \$40 million for fiscal year 1980, \$45 million for fiscal year 1981, \$50 million for fiscal year 1982 and such additional sums as may be necessary for each of the four fiscal years.

TITLE IV—NATIONAL COUNCIL ON THE HANDICAPPED

1. Number of Members

House bill

The House bill established within the Department of Health, Education and Welfare a 20-member National Council on the Handicapped.

Senate amendment

The Senate amendment created a 15-member Federal Council on Handicapped Individuals within the Federal government.

Conference agreement

The Senate recedes with an amendment limiting the number of Council members to 15.

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2. Composition

House bill

The House bill provided that at least 5 members of the Council be handicapped individuals. In addition, the House bill required at least 5 members responsible for administering State vocational rehabilitation programs, at least 5 members engaged in rehabilitation research, and the remaining members knowledgeable about problems of disabled people.

Senate amendment

The Senate amendment required that members of the Council, in addition to handicapped individuals, be representatives of consumer organizations, service providers, business and labor.

Conference agreement

The House recedes with an amendment adding representation for researchers; administrators of services to the handicapped; representatives of the handicapped including parents or guardians. Handicapped individuals includes the developmentally disability (as defined in this law) as well as all types of handicapped individuals as defined in this Act.

3. Vacancies

House bill

The House bill required vacancies on the Council to be filled by Presidential appointment with Senate confirmation.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

4. Compensation

House bill

The House bill established compensation rates for Council members.

Senate amendment

The Senate amendment was comparable, except that the Senate amendment excludes regular full-time employees of the United States from receiving compensation other than travel, subsistence, and other necessary expenses incurred in the performance of their duties.

Conference agreement

The House recedes.

5. Meetings

House bill

The House bill required that the National Council shall meet at the call of the Chairman, but not less often than six times a year.

Senate amendment

The Senate amendment was comparable except that the Senate required the Council to meet at least 4 times a year. In addition, the Senate amendment designates the Secretary of Health, Education and Welfare as an ex officio member of the Council.

Conference agreement

The House recedes.

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6. Quorum

House bill

The House required a quorum of 11 members for the Council.

Senate amendment

The Senate amendment sets the quorum at 8 members.

Conference agreement

The House recedes.

7. General Duties

House bill

The House bill required the Council to (1) establish general policies for and review the activities of RSA and NIHR and, (2) advise and make recommendations to the Commissioner, the Secretary of Health, Education and Welfare, and the Director of NIHR on program authorized by the Rehabilitation Act.

Senate amendment

The Senate amendment required the Council to advise the President on matters relating to the special needs of severely handicapped individuals. It also required the Council to review and evaluate on a continuing basis all policies, programs, and activities concerning handicapped individuals, severely handicapped individuals, and persons with developmental disabilities conducted or assisted by all Federal departments and agencies, including programs established or assisted under the Rehabilitation Act of 1973, the Comprehensive Services for Severely Handicapped Individuals Act of 1978, and the Developmental Disabilities Service and Facilities Construction Act, with a view toward determining the effectiveness of all Federal policies, programs and activities in meeting the needs of handicapped and severely handicapped individuals.

Conference agreement

The conference agreement strikes "severely" in reference to handicapped individuals and provides that the Council shall establish general policies of the Institute and advise with respect to the policies of the Rehabilitation Services Administration and the National Institute of Handicapped Research.

Further the Council would review and evaluate all policies, programs and activities concerning handicapped individuals conducted or assisted by the Federal government, including the Rehabilitation Act of 1973, and the Developmental Disabilities Services and Facilities Construction Act.

8. Policy Guidance

House bill

The House bill provided that in "carrying out any of his functions under the Act, the Commissioner shall be governed by general policies of the National Council on the Handicapped established under title IV of this Act."

Senate amendment

No provision.

Conference agreement

The Senate recedes with an amendment striking the word "governed" and inserting in lieu thereof "guided."