DRAFT 760 programs

Hon. William F. Goodling
Chairman
Committee on Education and the Workforce
U.S. House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-6100

Dear Chairman Goodling:

I am responding on behalf of President Clinton to your May 8, 1997 letter inviting the President to join in a review and evaluation of Federal education programs currently being conducted by the House Committee on Education and the Workforce.

As you know, education is the President's highest priority as he works to help all Americans prepare for the challenges of the 21st century. The President also has a keen interest, dating back to the 1993 National Performance Review, in determining "what works and what is wasted" in Federal programs. For my part, I have often noted that I did not come to Washington to protect the jobs of bureaucrats, but to make the changes needed to help improve teaching and learning in America's schools. I think you also know that I share your interest in local control of education, focusing on the basics, supporting parents, and getting the most out of Federal education dollars by making sure they reach the classroom. These principles are at the core of every elementary and secondary education initiative proposed by President Clinton, and we remain convinced that they are essential to effective education reform.

However, I fail to see how any of these principles are advanced by a so-called review of Federal education programs that takes as its starting point a list that includes hundreds of programs that have little or nothing to do with what goes on in America's classrooms. And despite longstanding efforts by the Department of Education to clarify the content and purpose of the programs on the Committee list, which now totals 788 programs, certain Members of the Committee continue to employ the list not as a tool for legislative reform, but as the foundation for a campaign against the Federal role in education.

A cursory examination of the Committee's list reveals that its size is owed primarily to three factors. First, educational training and outreach are by definition a component of virtually every Federal program activity. For example, educational activities are critical to Department of Agricultural efforts to improve nutrition, Department of Health and Human Services programs to prevent the spread of disease, and Department of Transportation activities to encourage boating safety. Second, the Federal government has a strong interest, determined and defined largely by the Congress, in supporting a wide variety of specialized educational training and research activities. This includes training FBI agents and air traffic controllers as well as much of the research carried out at the National Institutes of Health. And third, for 135 years the Federal government has played a key role in expanding opportunity and quality at every level of education, a role primarily filled through the programs administered by the Department of Education.

Programs in the first two categories were never designed, nor were ever claimed before the Committee undertook its investigation, to improve the quality and performance of our elementary and secondary schools. Programs in the third category include a significant number of activities that support postsecondary education. According to our review of the Committee list, this leaves a relatively small number of Federal programs—about 150—that actually deliver dollars aimed at improving elementary and secondary education.

Nevertheless, when Rep. Pete Hoekstra writes in *Roll Call* (June 2, 1997) about the shortcomings of America's education system, he assigns a large share of the blame to "a maze of more than 760 programs, spanning 40 different Federal agencies." Rep. Hoekstra, whose oversight subcommittee focuses on accountability issues, apparently is untroubled by holding hundreds of Federal programs accountable for ends they were never intended to achieve.

The Department's detailed review of the Committee list is enclosed for your information. In short, this review shows that the Committee's tally of "Federal education programs" is simply, unequivocally wrong. Out of the latest total of 788 programs, 75 are no longer authorized or funded, 206 involve specialized training or technical assistance and do not provide a single dollar to our elementary and secondary schools, and 268 support postsecondary education. That leaves 239 Federal programs that support elementary and secondary education, including non-instructional activities like the National School Lunch Program as well as educational outreach activities related to specific agency missions, such as training science teachers at the Department of Energy and Environmental Education Grants at the Environmental Protection Agency.

I have emphasized inaccuracy of the Committee's list because for over a year now it has been used as Exhibit A in support of other, equally dubious claims about the Federal role in education. In particular, Members of Congress have cited the list as proof of (1) wasteful and inefficient duplication in Federal programs, (2) an excessive and costly Federal bureaucracy, and (3) burdensome regulatory and paperwork requirements on schools and teachers. In reality, the Clinton Administration has an impressive record on all three counts:

> **Beginning with the 1993 National Performance Review, the Clinton Administration has taken the lead in eliminating unnecessary or ineffective programs and consolidating duplicative activities.** Through fiscal year 1997 the Department, working with Congress, has eliminated 64 programs totaling $625 million. Even with the addition of new programs, the total administered by the Department fell from 240 in 1995 to just under 200 in 1997. The recently signed reauthorization of the Individuals with Disabilities Education Act included program consolidations that will reduce that number even further, and the President's 1998 budget request includes 10 additional program terminations.
>
> **The Clinton Administration has reduced the number of Federal employees to levels not seen since the Kennedy Administration,** giving the lie to claims of "bloated bureaucracies" absorbing funds intended for schools and children. The Department of Education has actually seen its workforce fall by nearly 40 percent since 1980. Partly as a result of this decline, the Department administers more dollars per employee than any

other Cabinet-level agency, and delivers 98 cents of every appropriated dollar to States, schools, and students.

No President has done more to reduce regulatory burden, cut paperwork, and enhance local control of our elementary and secondary schools. Under President Clinton's regulatory reinvention initiative, the Department has eliminated nearly 40 percent of its regulations. The Department also has greatly expanded waivers of statutory and regulatory requirements that stand in the way of better teaching and learning, including allowing State-level officials broad authority to waive Federal requirements as part of the ED-FLEX demonstration. To reduce paperwork, States may now submit a single consolidation application for all Elementary and Secondary Education Act programs, and reporting requirements have been reduced. And no Federal program provides more flexible support for locally based education reform efforts than the regulation-free Goals 2000 program.

The President and I share your determination to eliminate unnecessary programs in order to devote the maximum Federal resources to those activities that make a real difference in improving teaching and learning in the classroom. I believe that there is broad and bipartisan agreement in the Congress regarding how best to improve education, and I believe that the American people expect us to work together to help prepare their children for tomorrow's challenges. The Committee's list only serves those who would divide us and divert us from that important task. I hope you will agree that it is time to put an end to such tactics and take a more constructive approach to meeting the needs of schools and teachers.

Sincerely,

Richard W. Riley

Enclosure

HR 1385/Adult Ed.

SPECIAL

Total Pages: 5

LRM ID: CJB52

No comment

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, June 17, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference

OMB CONTACT: Constance J. Bowers
PHONE: (202)395-3803 FAX: (202)395-6148

SUBJECT: JUSTICE Report on HR1385 Consolidation, Coordination, and Improvement of U.S. Employment, Training, Literacy, and Vocational Rehabilitation Programs

DEADLINE: 3:00 p.m. Friday, June 20, 1997

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: This draft report addresses HR 1385, as passed by the House

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LRM ID: CJB52 SUBJECT: JUSTICE Report on HR1385 Consolidation, Coordination, and Improvement of U.S. Employment, Training, Literacy, and Vocational Rehabilitation Programs

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RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or

(2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Constance J. Bowers Phone: 395-3803 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: ______________________ (Date)

______________________ (Name)

______________________ (Agency)

______________________ (Telephone)

The following is the reponse of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _________

_____ Other: ______________________

_____ FAX RETURN of _____ pages, attached to this reponse sheet

U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable James M. Jeffords
Chairman
Committee on Labor and Human Resources
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This presents the views of the Department of Justice on H.R. 1385, the "Employment, Training, and Literacy Enhancement Act of 1997," as passed by the House of Representatives. The Administration strongly supports the concepts embodied in this legislation. We do, however, have a few concerns that we would like to bring to your attention.

Constitutional concern. Section 401 of the bill (amending section 401(c) of the Job Training Partnership Act (JTPA) (29 U.S.C. § 1671(c))) would authorize the Secretary of Labor to "make grants to, or enter into contracts or cooperative agreements with, Indian tribes, tribal organizations, Alaska Native entities, Indian-controlled organizations serving Indians, or Native Hawaiian organizations" for certain employment and education-related services. To the extent that the bill treats members of federally recognized Indian tribes and Alaska Native villages as a class, its provisions would likely pass Equal Protection Clause scrutiny under the Supreme Court's decision in Morton v. Mancari, 417 U.S. 535 (1974). Under Morton, distinct treatment for such groups is properly regarded as based upon a political, rather than racial or ethnic, classification, and is thus subject only to rational review. 417 U.S. at 554. It is not clear that this analysis should not apply to the treatment of Native Hawaiians as well. Cf. United States v. Sandoval, 231 U.S. 28, 46-48 (1913); Rice v. Cayetano, 941 F. Supp. 1529 (D. Haw. 1996).

Our concern is with the bill's possible inclusion of individuals who are not members of federally recognized tribes or villages. Distinct treatment for such individuals might be deemed to be the use of racially or ethnically defined classifications subject to review under the stricter standards enunciated by the Court in its recent decision in Adarand Constructors, Inc. v. Pena, 115 S.Ct. 2097 (1995). Adarand held that strict scrutiny applies whenever the federal government voluntarily adopts racial or ethnic classifications as the basis for decisionmaking. Such classifications must be narrowly tailored to serve a compelling interest. Id. at 2113.

It is unclear from the face of the bill whether it would survive review under the Adarand standard. To avoid this issue, Congress might limit eligibility to members of federally recognized tribes or villages. For example, the definition of "Alaska native" that appears as proposed section 401(b)(1) of the JTPA might be eliminated, as members of federally recognized Indian tribes in Alaska fall within the definition of "Indian" in proposed section 401(b)(2) of the JTPA.

Alternatively, and as additional support for the provisions regarding Native Hawaiians, we recommend that Congress identify the specific objectives of the legislation. If the goals of the bill are to remedy past racial or ethnic discrimination, it would be prudent to include, or refer to, recent findings of the effects of discrimination against the affected groups. In order to help ensure the narrow tailoring of the measures, we recommend inclusion in the bill of a "sunset" provision or a provision for periodic review of the continued necessity of the program. It may also be advisable to provide some indication that race-neutral alternatives would be less effective than the classifications employed.

Nondiscrimination in the JTPA. We are concerned about what section 145 of the bill does to the Attorney General's authority under 29 U.S.C. § 1577(c) to enforce the bill's antidiscrimination provisions. Under current law, there are two contexts in which the Attorney General's enforcement authority arises: (i) upon referral from the Secretary of Labor, pursuant to section 1577(b)(1), indicating a violation of the antidiscrimination provisions; and (ii) upon the Attorney General's own reasonable belief that a recipient has engaged in a pattern or practice of conduct in violation of one or more of the statutes identified in section 1577(a)(1) or one or more of the antidiscrimination provisions set forth in section 1577(a)(2) through (5).

The current version of section 145 gives the Attorney General enforcement authority upon referral from the Secretary of Labor, but it repeals the Attorney General's "pattern and practice" authority and, along with it, her authority to act on her own initiative (i.e., without the Labor Secretary's referral). We believe that this would significantly diminish the Attorney General's authority to enforce the statute's antidiscrimination provisions.

In addition, we are concerned that section 145 of the bill would have the effect of repealing 29 U.S.C. § 1577(a)(5) (which provides that participation in JTPA programs "shall be open to citizens and nationals of the United States, lawfully admitted permanent resident aliens, lawfully admitted refugees and parolees, and other individuals authorized by the Attorney General to work in the United States"). Although the bill would not affirmatively prohibit the participation of persons who find themselves in one of the various non-citizen statuses identified in section 1577(a)(5), the effective repeal of section 1577(a)(5) could give rise to the inference that Congress intended to preclude such participation. We oppose this effective repeal as a matter of policy.

Collaborative process. Section 111 of the bill (amending section 102 of the JTPA) describes a collaborative process for the development of a state plan under the JTPA but contains no specific reference to tribal governments. Where tribal communities will be affected by a state's employment plan, they should be included, along with local officials, in the development of a state's plan.

Thank you for the opportunity to comment upon this legislation. If we may be of further assistance in connection with this or any other matter, we trust that you will not hesitate to call upon us. The Office of Management and Budget has adviced that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely

Andrew Fois
Assistant Attorney General

hr1385.516
5/16/97
10 AM

HR 1385 (Adult Ed)

Total Pages: 3

* NO ATTACHMENT

LRM ID: CJB36

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, May 6, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

Connie J Bowers for

FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference

OMB CONTACT: Constance J. Bowers
PHONE: (202)395-3803 FAX: (202)395-6148

SUBJECT: OMB Request for Views on HR1385 Consolidation, Coordination, and Improvement of U.S. Employment, Training, Literacy, and Vocational Rehabilitation Programs, as ordered reported by the House Committee on Education and the Workforce, April 30th.

DEADLINE: cob Monday, May 12, 1997

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

* COMMENTS: The Committee report is not yet available. For reported bill text, you may access the Committee's homepage on the World Wide Web (http://www.house.gov/eeo/). You should print out the subcommittee print, dated April 17th, and the text of the amendments adopted by the full committee -- listed individually. If you are not able to access the bill, please let us know. If the Committee report is available in hard copy before we need your views, we will provide it to you.

***Please provide comments on the bill that warrant inclusion in a Statement of Administration Policy for the House.

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RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

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Please include the LRM number shown above, and the subject shown below.

TO: Constance J. Bowers Phone: 395-3803 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: ______________________ (Date)

______________________ (Name)

______________________ (Agency)

______________________ (Telephone)

The following is the reponse of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _________

_____ Other: ______________________

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URGENT

Total Pages: 5

LRM ID: CJB31

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Monday, April 28, 1997

LEGISLATIVE REFERRAL MEMORANDUM

TO:	Legislative Liaison Officer - See Distribution below
FROM:	Janet R. Forsgren (for) Assistant Director for Legislative Reference
OMB CONTACT:	Constance J. Bowers PHONE: (202)395-3803 FAX: (202)395-6148
SUBJECT:	Executive Office of the President Report on HR1385 Consolidation, Coordination, and Improvement of U.S. Employment, Training, Literacy, and Vocational Rehabilitation Programs
DEADLINE:	1:00 p.m., today Tuesday, April 29, 1997

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: *** H.R. 1385 is scheduled to be marked up by the House Education and the Workforce Committee on Wednesday, April 30th. Therefore, <u>THIS DEADLINE IS FIRM</u>. ***If you are unable to reply by the deadline, we will assume you do not object to the transmission of this letter for the markup.*** ***

HR 1385 was introduced on April 17th, and marked up by the Subcommittee on Postsecondary Education, Training, and Lifelong Learning on April 24th. The subcommittee amendments are available on the Committee's homepage on the Internet. **NOTE: At the direction of the White House, this draft letter is being kept brief, positive, and focused on major principles. It will not be modified to address more specific features of the bill.

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LRM ID: CJB31 **SUBJECT:** Executive Office of the President Report on HR1385 Consolidation, Coordination, and Improvement of U.S. Employment, Training, Literacy, and Vocational Rehabilitation Programs

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RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

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Office of Management and Budget
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FROM: ______________________ (Date)

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______________________ (Agency)

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_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _________

_____ Other: ______________________

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DRAFT - 4/28-6:30pm

Dear Mr. Chairman:

There has been widespread agreement on the need to reform Federal job training programs to create a world class workforce development system. While we have engaged in a healthy debate on the best means of achieving that reform, I want you to know that I appreciate the progress you have made by introducing legislation to realize that goal.

While we do not agree on every provision of HR 1385 the bill, especially those affecting adult education and vocational rehabilitation, much of this legislation exemplifies our common goal of building an integrated workforce development system consistent with most of the principles I articulated in my G.I. Bill for America's Workers proposal. Those principles are: individual empowerment coupled with good information to guide customer choice; leaner government through program consolidation and one-stop service delivery; better accountability for results; and the state and local flexibility needed to shape local systems in partnership with business-led local workforce development boards.

These goals comprise the basis for my G.I. bill proposal and I am pleased that your new legislation incorporates similar principles. This approach will permit continued progress to reform, streamline, and integrate job training and employment services into a world class workforce development system. More importantly, this new system will be based on a firm foundation of individual opportunity, empowerment, and improved information for consumers -- representing a good first step towards improved accountability for results. In addition, the inclusion of skill

DRAFT

grants will aid those seeking training or retraining, ultimately giving them greater control over their career development.

It is time for us to work together to craft a system that allows all Americans to obtain the skills needed to succeed in the 21st Century workforce. I stand ready to work with you and the Committee to assure that this vital reform legislation meets our shared objectives.

Sincerely,

The Honorable William F. Goodling
Chairman
Committee on Education and the Workforce
House of Representatives
Washington, D.C. 20515

DRAFT

THE WHITE HOUSE

Elena

Per our conversation let me know who I should talk to at DPC about this.

Thanks

Emily

Bill K (+return)

Bill - I'm giving Emily your name. Please let me know where this goes. Elena

ROUGH WORKING DRAFT
STATE AND LOCAL COALITION AGREEMENT

ISSUE	PRINCIPLES
1. PROGRAM CONSOLIDATION	The coalition believes that as many major programs as possible should be consolidated into a single workforce development system. These programs should be consolidated to ensure maximum efficiency in designing and implementing a comprehensive and seamless system with major and appropriate roles for Federal, state and local governments.
2. FUNDING	Consolidation or greater coordination of the federal workforce development programs should be done for the purpose of providing states and localities with the flexibility they need to design and implement world-class workforce development systems. It should not be used as a means to reduce the federal deficit. In addition, funding for workforce development should be a major national investment priority. To facilitate rational planning, Congress should provide forward funding for these programs. Timely allocation of federal funds is essential to permit uninterrupted services to those in need. Federal funding should be provided at no less than FY97 levels. States should be able to carry forward any funds allotted for a program year up to two subsequent program years. Localities should be able to carry forward funds for one year after its initial allocation. Of the funds held at the state, such funds may by use to directly purchase education, training and employment services. Allotment of funds to the states should include a minimum allotment for small states and a "hold harmless" provision to moderate year-to- year fluctuations. State and local shares of funding under the new programs shall be proportional to the amounts received under current law. For example, if the legislation consolidated programs that under current law -- when combined -- divided the funds between state and localities 50%/50% -- then under this proposal, the funds would also be divided 50%/50%.
3. SYSTEM STRUCTURE	The coalition supports a three-tiered structure for the governance of the National Workforce Development System with major and appropriate roles at the federal, state and local levels.

4. INTEGRATION	Be it in a single grant or in several smaller grants, federal workforce and related education, employment and training legislation should permit states and localities to design and implement a single, comprehensive and responsive workforce development system. To ensure that all customers receive maximum services, such a system shall have as its goal the seamless provision of customer centered services. Such services do not necessarily need to be co-located. A basic legislative goal is a "common elements" provision for all federal programs, including those not consolidated by this bill, with a requirement to establish universal: • Regulatory and program definitions • Definitions for targeted populations • intake and assessment procedures • management information data bases • compatible and consistent outcomes • two common cost categories -- administrative and program services At the federal level, Congress shall call for the existing Task Force created to develop a list of common definitions for programs across federal agencies to complete its work within a set period of time. If such a timeline is not met, the Task Force shall be disbanded and another created to do its work. Then the Congress should act to implement common definitions.
5. FEDERAL ROLE	The coalition supports a three-tiered job training system involving federal, state and local governments. Each level of government shall have important and distinct roles and functions. The federal government shall establish broad goals and objectives for the system that reflects national employment and business trends. In addition, the federal and state cooperative shall provide comprehensive, accurate and timely labor market information to states and localities that may be used during the planning and program development and implementation stages of service delivery. The federal government shall also review and certify that state plans contain the provisions required by the Act, including the state's proposed performance standards, and sanctioning and de-certification procedures for local workforce development boards. The federal government through the appropriate federal agency shall carry out duties with respect to state and local accountability, including fiscal controls. The appropriate federal agency shall be held accountable by the Congress for both fiscal and programmatic accountability.

6. State and Local Planning Process	States, through a collaborative process, shall have authority for developing statewide plans. Included in the collaborative process shall be representatives, appointed by the Governor, from the groups such as the following groups: the legislature, business and industry, chief local elected officials, local educational agencies, postsecondary education, employees, appropriate state officials, including the chief elected education official or others as may be deemed appropriate. If a state has an existing Human Resource Investment Council or similar body that substantially meets the requirements of the collaborative process, the Governor can use such a body to develop the plan. State plans shall be developed through the collaborative process and shall outline the procedures by which states shall establish local delivery areas based upon local labor markets and existing political boundaries, measure performance, provide technical assistance and sanction local programs that fail to meet performance. Such plans shall also offer overall programmatic guidance for state training and employment programs, but shall give local programs substantial flexibility to respond to local needs. The plan shall also include procedures by which a local elected official may relinquish to the governor liability for funds used to administer programs under the plan. State plans shall be submitted to the appropriate federal agencies (Labor and Education). The plan may also include a process for creating performance incentives. The plan will cover a three-year period, unless subsequently amended by the state through a collaborative process. If the plan is substantially amended, it shall be re-submitted for certification. If under state law, the Governor does not have authority over the workforce related education programs included in the state plan, then the appropriate State official shall submit that portion of the plan to the appropriate Federal agency. The plan shall include dissenting comments, if any, from members of the collaborative process. Small states can serve as a single service delivery area. Local workforce development areas shall be established through the state planning process and shall reflect the principles in the state plan. The chief local elected official shall appoint a workforce development board under the procedures provided for in the state plan. Board members shall serve a one-year term, but can be re-appointed. The chief local elected official shall be chosen from the local elected officials of units of general purpose local government. Such a board shall be comprised of a majority from the business community, but shall also include representatives from organized labor, education, welfare, community based organizations, the employment security system, and other social and public services deemed appropriate. However, in no event shall an applicant, recipient of funds or anyone with an apparent conflict of interest sit on the board. In states with a single service delivery area, direct recipients of funds may sit on the board if they are executive officials of state. The board shall elect its chair from among its members. Local workforce development boards shall work in partnership with chief local elected officials to ensure that a comprehensive local workforce development system is developed and implemented that meets the needs of the service area.

6. STATE AND LOCAL PLANNING PROCESS (CONTINUED)	The chief local elected official and the workforce development board shall develop a joint three-year plan. This plan shall be developed within the parameters established in the state plan. The plan shall reflect the goals of the state plan, establish the service strategy, guidelines for creating a no wrong door system, include benchmarks and performance measures and guidelines for funding specific training and employment services, the procedures by which various service providers shall coordinate their services and reflects the needs of local service areas. The plan shall be approved by the state and when appropriate the state shall have input into the plan. Local workforce development boards shall be responsible for implementing the no-wrong door system, letting contracts for services, and overseeing the operations of the program and for attaining performance standards. Local boards shall not be a direct provider of services. The Governor and the chief local elected official shall be responsible for evaluating the no-wrong door system and the training programs that the board funds, and shall determine the extent to which programs are meeting state and local performance standards. In the event that the chief local elected official does not agree to decertify a local board that is failing to meet the performance standards, the Governor may act independently to make the necessary changes.
7. FEDERAL STATE AND LOCAL ALLOCATIONS	Maintain current proportional shares of funds between state and local governments. Of the funds that will be allocated to local workforce development boards, allocation of 70% of the funds shall be determined in the federal statute The remaining 30% of the local funds will be determined through the collaborative process. Funds from this allotment may be used as incentives to regionalize workforce development areas. States can carry-over funds for two years after its initial allocation. Locals can carry over funds for one year after its initial allocation. The state has the authority to reallocate funds not spent by an SDA after two years. Funds held at the federal level should be used for the administration of the programs and to respond to major dislocations.
8. DETERMINING WORKFORCE DEVELOPMENT AREAS	Service delivery areas shall be determined in the state plan, except that single units of general purpose government with population of 500,000 can apply to be a designated service delivery area. Counties with population in excess of 500,000, which apply for automatic designation, shall do so with the concurrence of those cities with populations of 200,000. If such concurrence is not reached, such a determination shall be made through the state collaborative process. Single units of general purpose government with populations of 200,000 or more that are currently SDA's shall have an automatic right of appeal through the collobarative process. Once the boundaries for an SDA are determined as part of the plan, the boundaries shall not be changed except with the approval of the Governor.

9. **Delivery of Services**	As part of the planning process, states and locals will develop a plan for optimizing the delivery of services in a manner that meets the needs of the states and localities. Since many states and local workforce development boards would like the opportunity to test and evaluate different types of delivery systems, federal legislation should provide states with the maximum amount of flexibility to design delivery systems and should not prescribe a single type of delivery system -- such as vouchers – for the delivery of all services. Of the funds held at the state level, such funds may be used to directly purchase education, training and employment services.
10. **Performance and Accountability**	The appropriate Federal agency shall appoint a task force that reflects the make-up of representatives participating in the collaborative process that shall develop model performance standards. As part of the planning process, states and localities shall design a performance-based accountability system that focuses on results -- not process. Such a system shall be described in the state and local plan. At the state level, Governors --through the collaborative state planning process — shall develop benchmarks for outcomes to be achieved by the state's system that are appropriate for the state's particular needs and plans. In addition, performance measures shall be established by the states, focused on customer driven outcomes – not program activities — implemented through state-local collaborative processes, supportive of serving those most in need and devoted to continuous improvement in service delivery and system results. Benchmarks and performance standards shall be included in the state plan. As provided for in the state plan, states shall have the authority to ensure performance by local programs. When, after one year, local workforce boards fail to achieve the approved performance measures states will provide technical assistance and a new local plan shall be developed and implemented. In those circumstances when technical assistance does not lead to achievement of the performance measures, Governors have the authority to sanction a local board, as provided for in the state plan. Such sanctions may include elimination or restructuring of the board or workforce area, combining the service area with one or more workforce development area(s), working with the chief local elected official, de-certifying a local board and establishing a new one, having the state take over the operations of the board, reallocating funds to another workforce development board. Workforce development boards will have 30 days from the date the sanction is issued to appeal the sanction to the Governor and the Secretary of Labor. Both the Governor and the Secretary of Labor must respond to the appeal within 30 days of it being files. During the sanctioning process, local workforce boards will cease to operate and services will be provided, to the extent practicable, to customers by the surrounding areas local workforce boards. At the local level, local workforce development boards and the chief local elected officials shall also develop benchmarks and performance measures that incorporate the state measures and also reflect the need of the local

10. PERFORMANCE AND ACCOUNTABILITY (CONTINUED)	area. Such benchmarks and measures shall be included in the local plan. States and local workforce boards shall provide information on a number of outcomes, including but not limited to: increases in the education and skills of the current and future workforce, the employment of workers, and information on services provided to groups of individuals who are protected under Federal or state law. A portion of the funds allocated to states and localities shall be set-aside for performance incentives.
11. FUTA	FUTA funding should remain a separate dedicated funding stream to be used for the purposes for which the taxes are currently collected. However, activities supported by FUTA should be integrated as much as possible into state and local service delivery systems. All employment service, veterans programs and labor market information should be accessible to all citizens through the "no wrong door" comprehensive system designed and implemented by states and localities. The coalition opposes the current proposal to require FUTA payments to be collected on a monthly basis. Under current law, payments are made on a quarterly basis, minimizing costs and administrative burdens on states and employers.
12. PROTECTIONS FOR EXISTING STATE LAW	States that have enacted comprehensive workforce related education and employment and training laws prior to the date of enactment of this legislation should be exempted from the conflicting provisions of this legislation.
13. WAIVER	All of the provisions of this Act and the resulting regulations can be waived by the appropriate federal Secretaries (except federal to state allotments and civil rights provisions) if, through the collaborative state planning process or enactment of state law, the Governor can demonstrate that such a waiver can improve the ability of the state to create and implement a state-wide comprehensive workforce development system.
14. TRANSITION	This legislation should be enacted as soon as possible with an effective date one year following date of enacted and including the option to implement immediately. Governors should be given immediate flexibility under federal statutes and regulations governing existing programs to combine programs and funding, combine administrative funds from the consolidated programs. In addition, states should be permitted to allocate for planning and implementation purposes, unexpended funds allotted to states under the repealed or modified statutes, and to use funds from the new program to close out repealed programs.

15. LIABILITY	Those elected officials responsible for overseeing the administration of the funds shall be held liable for these funds. Local workforce development boards shall be responsible for implementing the no-wrong door system, letting contracts for services, and overseeing the operations of the program and for attaining the performance standards. The Act should clearly designate financial liability and define the means by which funds can be repaid. In the event that a local elected official opts to relinquish liability for funds administered by this program; he/she may do so under the procedures provided for under the state plan.

William R. Kincaid
05/15/97 06:10:45 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP

cc: Michael Cohen/OPD/EOP
Subject: HR 1385

Today you asked about HR 1385, the Employment, Training and Literacy Enhancement Act that is scheduled for House floor consideration tomorrow. Here's a quick summary/status report, based on some materials assembled by OMB and discussions with folks at the Department of Education.

This bill, sponsored by subcommittee chair Rep. McKeon, would consolidate exsting federal employment, training, and literacy programs into three block grants to states and localities for l) adult employment and training for disadvantaged workers, 2) disadvantaged youth (including high school dropouts), and 3) adult education and family literacy. While JTPA programs for youth would be consolidated into the block grants, Federal administration of Job Corps would be maintained.

The legislation would also reauthorize the Vocational Rehabilitation Act for 3 years.

The bill **not** address vocational education programs (nor school-to-work programs), which are now under the jurisdiction of a different subcommittee.

The Administration is preparing to send up a SAP that compliments the bill as incorporating many of the principles in the President's GI Bill for America's workers, but noting generally concerns with provisions on adult ed and voc rehab. Among other features, the bil would require adult training to be provided through skill grants, distributed via a statewide employment and training delivery system. The SAP follows a similarly positive letter from the President made available at the Committee markup.

The Department of Education has raised concerns, not fully discussed in the SAP, of accountability, principally having to do with the grounds for state plan approval (mere technical compliance versus quality and promise of meeting purposes of the act) and the ability to negotiate over indicators of program performance. Education is also concerned that the bill needs to be more explicit on the role of the State Educational Agency (SEA) in governance. DOL is concerned that the legislation does not assure that consolidated state youth programs will include a summer jobs component, and that the bill does not provide for adequate worker representation on local boards.

The Administration's own Adult Education Act reauthorization proposal has recently been introduced as HR 1562. My understanding is that the McKeon bill has incorporated many of the key elements of the Administration proposal.

I am not currently aware of any issues or controversies expected to arise in the context of floor consideration tomorrow, but I will keep checking around.

Hope this is helpful.