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1 “(f) Within ninety days after the date of enactment of
2 the Legal Services Corporation Act Amendments of 1981,
3 the Board shall request the Governor of each State to ap-
4 point a ten member advisory council for such State. A major-
5 ity of the members of the advisory council shall be appointed,
6 after recommendations have been received from the State bar
7 association, from among the attorneys admitted to practice in
8 the State, and the membership of the council shall be subject
9 to annual reappointment. The other members of the council
10 shall include two eligible clients and two members of the gen-
11 eral public from that State. If ninety days have elapsed after
12 such request without such an advisory council being appoint-
13 ed by the Governor, the Board shall appoint such a council.
14 The advisory council shall be charged with notifying the Cor-
15 poration of any apparent violation of the provisions of this
16 title and applicable rules, regulations, and guidelines promul-
17 gated pursuant to this title. The advisory council shall, at the
18 same time, furnish a copy of the notification to any recipient
19 affected thereby, and the Corporation shall allow such recipi-
20 ent a reasonable time (but in no case less than thirty days) to
21 reply to any allegation contained in the notification. The Cor-
22 poration and recipients shall notify the relevant State adviso-
23 ry councils promptly of any alleged violations of this title by
24 recipients or their employees. At least sixty days prior to the
25 approval of any grant application or prior to entering into a

1 contract or prior to the initiation of any other project, the
2 Corporation shall announce publicly such grant, contract, or
3 project and shall send notification thereof to the advisory
4 council of any State in which legal assistance will be pro-
5 vided as a result of the grant, contract, or project. Notifica-
6 tion shall include a specific description of the grant applica-
7 tion or proposed contract or project and a request for com-
8 ments and recommendations. The council shall be given a
9 reasonable opportunity to review and comment on such al-
10 leged violations and on such grants, contracts, and
11 projects.”.

12 ENFORCEMENT AND SANCTIONS

13 SEC. 3. (a) Section 1006(b)(5) of the Legal Services
14 Corporation Act (42 U.S.C. 2996(b)(5)) is amended by strik-
15 ing out the second sentence and inserting in lieu thereof the
16 following: “The Board, within thirty days after the date of
17 enactment of the Legal Services Corporation Act Amend-
18 ments of 1981, shall issue regulations to provide for the en-
19 forcement of this title, which regulations shall include, among
20 available remedies, provisions for the immediate suspension
21 of financial assistance under this title, suspension of an em-
22 ployee of the Corporation or any employee of any recipient
23 by such recipient or by the President of the Corporation, and
24 the reduction or termination of such assistance or employ-
25 ment as deemed appropriate for the violation involved. Fi-

1 nancial assistance under this title shall not be terminated or
2 suspended for a period of more than thirty days unless the
3 recipient, grantee, or contractor has been afforded reasonable
4 notice and opportunity for a fair hearing pursuant to regula-
5 tions promulgated by the Corporation.”.

6 (b)(1) Section 1011 of the Legal Services Corporation
7 Act (42 U.S.C. 2996j) is repealed.

8 (2) The amendment made by paragraph (1) shall not
9 affect any proceeding pending on the date of enactment of
10 this Act which is being conducted in accordance with section
11 1011 of the Legal Services Corporation Act.

12 (c) Section 1007(a)(9) of such Act (42 U.S.C.
13 2996f(a)(9)) is amended to read as follows:

14 “(9) insure that every grantee, contractor, or
15 person or entity receiving financial assistance under
16 this title that files with the Corporation a timely appli-
17 cation for refunding is provided interim funding, pend-
18 ing the decision of the Corporation on the application,
19 sufficient to allow for the continuation of representation
20 of clients on whose behalf litigation, negotiation, or
21 other forms of representation have been initiated; and”.

22 PROHIBITIONS ON LOBBYING

23 SEC. 4. (a) Section 1006(c) of the Legal Services Corpo-
24 ration Act (42 U.S.C. 2996e(c)(2)) is amended to read as
25 follows:

1 “(c) The Corporation shall not itself participate in litigation
2 unless the Corporation or a recipient of the Corporation
3 is a party, or a recipient is representing an eligible client in
4 litigation in which the interpretation of this title or a regulation
5 promulgated under this title is an issue, and shall not
6 participate on behalf of any client other than itself. The provisions
7 of section 1913 of title 18, United States Code, shall
8 apply to all officers and employees of the Corporation.”.

9 (b) Section 1007(a)(5) of the Legal Services Corporation
10 Act (42 U.S.C. 2996f(a)(5)) is amended to read as follows:

11 “(5) insure that no funds made available to any
12 recipient shall be used at any time, directly or indirectly,
13 to attempt to influence any decision by a Federal,
14 State, or local agency, to attempt to influence, directly
15 or indirectly, through publicity, propaganda, or otherwise,
16 the introduction, passage, or defeat of any legislation
17 in the Congress of the United States, or in any
18 State or local legislative body, or to attempt to influence
19 State proposals by initiative petition, except
20 where—

21 “(A) legal assistance is provided by an employee
22 of a recipient to an eligible client on a particular application,
23 claim, or case, which directly involves that client’s legal rights
24 and responsibilities, except that this subparagraph shall not be
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1 construed to permit a staff attorney or any other
2 employee of a recipient to solicit a client, in viola-
3 tion of professional responsibilities, for the pur-
4 pose of making such representation possible; or

5 “(B) a governmental agency, a legislative
6 body or a committee thereof, or a member of such
7 a legislative body or committee formally requests
8 that an employee of a recipient testify or make
9 representations to such agency, legislative body,
10 committee, or member.”.

11 LIMITATION ON CLASS ACTIONS

12 SEC. 5. Section 1006(d)(5) of the Legal Services Corpo-
13 ration Act (42 U.S.C. 2996e(d)(5)) is amended by adding at
14 the end thereof the following: “No class action suit may be
15 brought against the Federal Government or any State or
16 local government except in accordance with policies or regu-
17 lations adopted by the Board of the Corporation.”.

18 LIABILITY FOR ATTORNEYS’ FEES

19 SEC. 6. Section 1006(f) of the Legal Services Corpora-
20 tion Act (42 U.S.C. 2996c(f)) is amended to read as follows:

21 “(f) If an action is commenced by the Corporation or by
22 a recipient and a final order is entered in favor of the defend-
23 ant and against the Corporation or a recipient’s plaintiff, the
24 court shall, upon motion by the defendant and upon a finding
25 by the court that the action had no reasonable basis in law or

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1 program director, require immediate action to protect
2 the interests of a client.”.

3 PRIVATE BAR INVOLVEMENT

4 SEC. 8. Section 1007(a) of the Legal Services Corpora-
5 tion Act, as amended by section 7 of this Act, is further
6 amended—

7 (1) in paragraph (10) by striking out “and” after
8 the semicolon;

9 (2) in paragraph (11) by striking out the period
10 and inserting in lieu thereof “; and”; and

11 (3) by adding at the end thereof the following:

12 “(12) in each fiscal year, to the extent feasible
13 and consistent with paragraph (3) of this subsection,
14 make available substantial amounts of funds to provide
15 the opportunity for legal assistance to be rendered to
16 eligible clients by private attorneys, except that the
17 Corporation shall issue regulations to provide that
18 compensation to private attorneys for rendering such
19 legal assistance shall not exceed reasonable costs and
20 expenses and the Corporation shall develop suitable
21 criteria for determining the amount of such reasonable
22 costs and expenses.”.

1 AWARDS OF ATTORNEYS' FEES

2 SEC. 9. (a) Section 1007(a) of the Legal Services Cor-
3 poration Act, as amended by sections 7 and 8 of this Act, is
4 further amended—

5 (1) in paragraph (11) by striking out “and” after
6 the semicolon;

7 (2) in paragraph (12) by striking out the period
8 and inserting in lieu thereof “; and”; and

9 (3) by adding at the end thereof the following:

10 “(13) insure that any recipient who receives an
11 award of attorneys’ fees shall, notwithstanding any
12 other provision of law, transfer such fees to the Corpo-
13 ration, except that (A) no recipient shall be required to
14 transfer fees or other compensation received as a result
15 of a mandated court appointment, and (B) a recipient
16 may retain reasonable costs customarily allowed in liti-
17 gation against an unsuccessful party.”.

18 (b) The amendment made by subsection (a)(3) shall
19 apply only to actions commenced after the date of enactment
20 of this Act.

21 ADDITIONAL RESTRICTIONS ON USE OF FUNDS

22 SEC. 10. Section 1007(b) of the Legal Services Corpo-
23 ration Act (42 U.S.C. 2996f(b)) is amended—

24 (1) by amending paragraph (6) to read as follows:

1 “(6) to support or conduct training programs for
2 the purpose of advocating particular public policies or
3 encouraging political activities, labor or antilabor activ-
4 ities, boycotts, picketing, strikes, and demonstrations,
5 including the dissemination of information about such
6 policies or activities, except that this paragraph shall
7 not be construed to prohibit the training of attorneys or
8 paralegal personnel necessary to prepare them to pro-
9 vide adequate legal assistance to eligible clients;”;

10 (2) by amending paragraph (8) to read as follows:

11 “(8)(A) to provide legal assistance with respect to
12 any proceeding or litigation relating to abortion unless
13 such abortion is necessary to save the life of the
14 mother, or (B) to support in whole or in part any legal
15 assistance activity of any attorney in connection with
16 any proceeding or litigation relating to abortion unless
17 such abortion is necessary to save the life of the
18 mother, except that nothing in this paragraph shall
19 prohibit the provision of legal advice to an eligible
20 client with respect to such client’s legal rights and
21 responsibilities;”;

22 (3) in paragraph (9) by striking out “or” after the
23 semicolon;

24 (4) in paragraph (10) by striking out the period
25 and inserting in lieu thereof a semicolon; and

1 (5) by adding at the end thereof the following new
2 paragraphs:

3 “(11) to provide legal assistance for or on behalf
4 of any individual who is known to be an alien in the
5 United States in violation of the Immigration and Na-
6 tionality Act or any other law of the United States, or
7 convention or treaty to which the United States is a
8 party, relating to the immigration, exclusion, deporta-
9 tion, or expulsion of aliens; or

10 “(12) to provide legal assistance for any litigation
11 which seeks to adjudicate the legalization of
12 homosexuality.”.

13 DOCUMENTATION OF ELIGIBILITY

14 SEC. 11. Section 1008 of the Legal Services Corpora-
15 tion Act (42 U.S.C. 2996g) is amended by adding at the end
16 thereof the following new subsection:

17 “(f) The Corporation shall require each recipient to
18 maintain documentation (1) demonstrating the eligibility of
19 each person to whom such recipient provides legal assistance,
20 and (2) of any activity referred to in subparagraph (A) or (B)
21 of section 1007(a) of this title. The Corporation shall periodi-
22 cally review such documentation, in a manner that protects
23 confidential client information, to assure compliance with this
24 subsection and shall include in each annual report prepared

1 pursuant to subsection (c) of this section its findings with
2 respect to such compliance.”.

3 FINANCING

4 SEC. 12. (a) Section 1010(a) of the Legal Services Cor-
5 poration Act (42 U.S.C. 2996i(a)) is amended by inserting
6 immediately after the second sentence the following new sen-
7 tence: “There are authorized to be appropriated for purposes
8 of carrying out the activities of the Corporation
9 \$260,000,000 for the fiscal year 1982, and \$260,000,000 for
10 the fiscal year 1983.”.

11 (b) Section 1010(d) of such Act is amended to read as
12 follows:

13 “(d) Not more than 7 percent of the amounts appropri-
14 ated pursuant to subsection (a) of this section for the fiscal
15 year 1982 and any fiscal year thereafter shall be available in
16 any such fiscal year for grants or contracts under section
17 1006(a)(3) of this title.”.

18 TECHNICAL AMENDMENTS

19 SEC. 13. Section 1006(b) of the Legal Services Corpo-
20 ration Act (42 U.S.C. 2996e(b)) is amended—

21 (1) in paragraph (1)(A) by striking out “section
22 1011” and inserting in lieu thereof “paragraph (5) of
23 this subsection”; and

1 (2) in paragraph (2) by striking out "the provi-
2 sions of section 1011" and inserting in lieu thereof
3 "paragraph (5) of this subsection".

○

LEGAL SERVICES CORPORATION ACT AMENDMENTS OF
1981

MAY 19, 1981.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. KASTENMEIER, from the Committee on the Judiciary,
submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 3480]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3480) to amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, 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:

SHORT TITLE

SECTION 1. This Act may be cited as the "Legal Services Corporation Act Amendments of 1981".

STATE ADVISORY COUNCILS

SEC. 2. Section 1004(f) of the Legal Services Corporation Act (42 U.S.C. 2996c(f)) is amended to read as follows:

"(f) Within 90 days after the date of enactment of the Legal Services Corporation Act Amendments of 1981, the Board shall request the Governor of each State to appoint a ten member advisory council for such State. A majority of the members of

(1)

the advisory council shall be appointed, after recommendations have been received from the State bar association, from among the attorneys admitted to practice in the State, and the membership of the council shall be subject to annual reappointment. The other members of the council shall include two eligible clients and two members of the general public from that State. If 90 days have elapsed after such request without such an advisory council being appointed by the Governor, the Board shall appoint such a council. The advisory council shall be charged with notifying the Corporation of any apparent violation of the provisions of this title and applicable rules, regulations, and guidelines promulgated pursuant to this title. The advisory council shall, at the same time, furnish a copy of the notification to any recipient affected thereby, and the Corporation shall allow such recipient a reasonable time (but in no case less than 30 days) to reply to any allegation contained in the notification. The Corporation and recipients shall notify the relevant State advisory councils promptly of any alleged violations of this title by recipients or their employees. At least 60 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly such grant, contract, or project and shall send notification thereof to the advisory council of any State in which legal assistance will be provided as a result of the grant, contract, or project. Notification shall include a specific description of the grant application or proposed contract or project and a request for comments and recommendations thereon. The council shall be given a reasonable opportunity to review and comment on such alleged violations and on such grants, contracts, and projects."

QUALIFICATIONS OF RECIPIENTS

SEC. 3. Section 1006(a)(1) of the Legal Services Corporation Act (42 U.S.C. 2996(a)(1)) is amended to read as follows:

"(1) to provide financial assistance to and to make grants to and contracts with—

"(A) qualified nonprofit organizations chartered under the laws of one of the States for the sole purpose of furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance, and

"(B) private attorneys for the sole purpose of furnishing legal assistance to eligible clients pursuant to the provisions of section 1007(a)(12);"

ENFORCEMENT AND SANCTIONS

SEC. 4. (a) Section 1006(b)(5) of the Legal Services Corporation Act (42 U.S.C. 2996(b)(5)) is amended by striking out the second sentence and inserting in lieu thereof the following: "The Board, within 30 days after the date of enactment of the Legal Services Corporation Act Amendments of 1981, shall issue regulations to provide for the enforcement of this title, which regulations shall include, among available remedies, provisions for the immediate suspension of financial assistance under this title, suspension of an employee of the Corporation or any employee of any recipient by such recipient or by the President of the Corporation, and the reduction or termination of such assistance or employment as deemed appropriate for the violation involved. Financial assistance under this title shall not be terminated or suspended for a period of more than 30 days unless the recipient, grantee, or contractor has been afforded reasonable notice and an opportunity for a fair hearing pursuant to regulations promulgated by the Corporation."

(b)(1) Section 1011 of the Legal Services Corporation Act (42 U.S.C. 2996j) is repealed.

(2) The amendment made by paragraph (1) shall not affect any proceeding pending on the date of enactment of this Act which is being conducted in accordance with section 1011 of the Legal Services Corporation Act.

(c) Section 1007(a)(9) of such Act (42 U.S.C. 2996f(a)(9)) is amended to read as follows:

"(9) insure that every grantee, contractor, or person or entity receiving financial assistance under this title that files with the Corporation a timely application for refunding is provided interim funding, pending the decision of the Corporation on the application, sufficient to allow for the continuation of represen-

recommendations have been received
attorneys admitted to practice in
be subject to annual reappoint-
de two eligible clients and two
0 days have elapsed after such
appointed by the Governor, the
ncil shall be charged with noti-
the provisions of this title and
ated pursuant to this title. The
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allow such recipient a reason-
to any allegation contained in
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this title by recipients or their
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not affect any proceeding pend-
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(a)(9)) is amended to read as fol-

person or entity receiving finan-
the Corporation a timely applica-
pending the decision of the Cor-
for the continuation of represen-

tation of clients on whose behalf litigation, negotiation, or other forms of repre-
sentation have been initiated; and".
(d) Section 1006(b)(5) of such Act is amended in the first sentence by striking out
"(except as permitted by law in connection with such employee's own employment
situation)".

PROHIBITIONS ON LOBBYING

SEC. 5. (a) Section 1006(c) of the Legal Services Corporation Act (42 U.S.C. 2996e(c)(2)) is amended to read as follows:

"(c) The Corporation shall not itself participate in litigation unless the Corpora-
tion or a recipient of the Corporation is a party, or a recipient is representing an
eligible client in litigation in which the interpretation of this title or a regulation
promulgated under this title is an issue, and shall not participate on behalf of any
client other than itself. The provisions of section 1913 of title 18, United States
Code, shall apply to all officers and employees of the Corporation."

(b) Section 1007(a)(5) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(5)) is
amended to read as follows:

"(5) insure that no funds made available to any recipient shall be used at any
time, directly or indirectly, to attempt to influence any decision by a Federal,
State, or local agency, to attempt to influence, directly or indirectly, through
publicity, propaganda, or otherwise, the introduction, passage, or defeat of any
legislation in the Congress of the United States, or in any State or local legisla-
tive body, or to attempt to influence State proposals by initiative petition,
except where—

"(A) legal assistance is provided by an employee of a recipient to an eligi-
ble client on a particular application, claim, or case, which directly involves
that client's legal rights and responsibilities, except that this subparagraph
shall not be construed to permit a staff attorney or any other employee of a
recipient to solicit a client, in violation of professional responsibilities, for
the purpose of making such representation possible; or

"(B) a governmental agency, a legislative body or a committee thereof, or
a member of such a legislative body or committee formally requests that an
employee of a recipient testify or make representations to such agency, leg-
islative body, committee, or member, in which case the employee may re-
spond only to the agency, legislative body, committee, or member making
the request."

LIMITATION ON CLASS ACTIONS

SEC. 6. Section 1006(d)(5) of the Legal Services Corporation Act (42 U.S.C. 2996e(d)(5)) is amended by adding at the end thereof the following: "No class action
suit may be brought against the Federal Government or any State or local govern-
ment except in accordance with policies or regulations adopted by the Board."

LIABILITY FOR ATTORNEYS' FEES

SEC. 7. Section 1006(f) of the Legal Services Corporation Act (42 U.S.C. 2996e(f))
is amended to read as follows:

"(f) If an action is commenced by the Corporation or by a recipient and a final
order is entered in favor of the defendant and against the Corporation or a recipi-
ent's plaintiff, the court shall, upon motion by the defendant and upon a finding by
the court that the action had no reasonable basis in law or fact, enter an order
(which shall be appealable before being made final) awarding reasonable costs and
legal fees incurred by the defendant in defense of the action, except when in contra-
vention of a State law, a rule of the court, or a statute of general applicability. Any
such costs and fees shall be directly paid by the Corporation."

NEGOTIATION REQUIREMENT

SEC. 8. Section 1007(a) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)),
as amended by section 4(c) of this Act, is further amended—

(1) in paragraph (9) by striking out "and" after the semicolon;
(2) in paragraph (10) by striking out the period and inserting in lieu thereof ";
and"; and

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

"(11) require recipients to attempt to negotiate a settlement of controversies
before filing suit in order to prevent the persistent incitement of litigation and

to encourage the resolution of such controversies through compromise and settlement rather than through litigation, except that nothing in this paragraph shall preclude attorneys from immediately filing suit where the circumstances of the case, as determined by the local program director, require immediate action to protect the interests of a client."

PRIVATE BAR INVOLVEMENT

SEC. 9. Section 1007(a) of the Legal Services Corporation Act, as amended by section 8 of this Act, is further amended—

- (1) in paragraph (10) by striking out "and" after the semicolon;
- (2) in paragraph (11) by striking out the period and inserting in lieu thereof "and"; and
- (3) by adding at the end thereof the following:
 "(12) in each fiscal year, to the extent feasible and consistent with paragraph (3) of this subsection, make available substantial amounts of funds to provide the opportunity for legal assistance to be rendered to eligible clients by private attorneys, except that the Corporation shall issue regulations to provide that compensation to private attorneys for rendering such legal assistance shall not exceed reasonable costs and expenses and the Corporation shall develop suitable criteria for determining the amount of such reasonable costs and expenses."

AWARDS OF ATTORNEYS' FEES

SEC. 10. (a) Section 1007(a) of Legal Services Corporation Act, as amended by sections 8 and 9 of this Act, is further amended—

- (1) in paragraph (11) by striking out "and" after the semicolon;
- (2) in paragraph (12) by striking out the period and inserting in lieu thereof "and"; and
- (3) by adding at the end thereof the following:
 "(13) insure that any recipient who receives an award of attorneys' fees shall, notwithstanding any other provision of law, transfer such fees to the Corporation, except that (A) no recipient shall be required to transfer fees or other compensation received as a result of a mandated court appointment, and (B) a recipient may retain reasonable costs customarily allowed in litigation against an unsuccessful party."

(b) The amendment made by subsection (a)(3) shall apply only to actions commenced after the date of enactment of this Act.

ADDITIONAL RESTRICTIONS ON USE OF FUNDS

SEC. 11. Section 1007(b) of the Legal Services Corporation Act (42 U.S.C. 2996f(b)) is amended—

- (1) by amending paragraph (6) to read as follows:
 "(6) to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, including the dissemination of information about such policies or activities, except that this paragraph shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients;"
- (2) by amending paragraph (8) to read as follows:
 "(8)(A) to provide legal assistance with respect to any proceeding or litigation relating to abortion unless such abortion is necessary to save the life of the mother, or (B) to support in whole or in part any legal assistance activity of any attorney in connection with any proceeding or litigation relating to abortion unless such abortion is necessary to save the life of the mother, except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities;"
- (3) in paragraph (9) by striking out "or" after the semicolon;
- (4) in paragraph (10) by striking out the period and inserting in lieu thereof a semicolon; and
- (5) by adding at the end thereof the following new paragraphs:
 "(11) to provide legal assistance for or on behalf of any individual who is known to be an alien in the United States in violation of the Immigration and Nationality Act or any other law of the United States, or convention or treaty to which the United States is a party, relating to the immigration, exclusion, deportation, or expulsion of aliens; or

"(12) to provide legal assistance for any litigation which seeks to adjudicate the legalization of homosexuality."

DOCUMENTATION OF ELIGIBILITY

SEC. 12. Section 1008 of the Legal Services Corporation Act (42 U.S.C. 2996g) is amended by adding at the end thereof the following new subsection:

"(f) The Corporation shall require each recipient to maintain documentation (1) demonstrating the eligibility of each person to whom such recipient provides legal assistance, and (2) of any activity referred to in subparagraph (A) or (B) of section 1007(a)(5) of this title. The Corporation shall periodically review such documentation, in a manner that protects confidential client information, to assure compliance with this subsection and shall include in each annual report prepared pursuant to subsection (c) of this section its findings with respect to such compliance."

FINANCING

SEC. 13. (a) Section 1010(a) of the Legal Services Corporation Act (42 U.S.C. 2996i(a)) is amended by inserting immediately after the second sentence the following new sentence: "There are authorized to be appropriated for purposes of carrying out the activities of the Corporation \$260,000,000 for the fiscal year 1982, and \$260,000,000 for the fiscal year 1983."

(b) Section 1010(d) of such Act is amended to read as follows:

"(d) Not more than seven percent of the amounts appropriated pursuant to subsection (a) of this section for the fiscal year 1982 and any fiscal year thereafter shall be available in any such fiscal year for grants or contracts under section 1006(a)(3) of this title."

TECHNICAL AMENDMENTS

SEC. 14. Section 1006(b) of the Legal Services Corporation Act (42 U.S.C. 2996e(b)) is amended—

(1) in paragraph (1)(A) by striking out "section 1011" and inserting in lieu thereof "paragraph (5) of this subsection"; and

(2) in paragraph (2) by striking out "the provisions of section 1011" and inserting in lieu thereof "regulations promulgated pursuant to the last sentence of paragraph (5) of this subsection".

PURPOSE OF THE BILL

The primary purpose of H.R. 3480 is to extend the authorization for appropriations for the Legal Services Corporation for two additional fiscal years (1982 and 1983) at the level of \$260 million for each year. The Legal Services Corporation was established by Congress in 1974 with the enactment of the Legal Services Corporation Act of 1974 (Public Law 93-355). This law provided the Corporation with a three-year authorization period covering fiscal years 1975-77. In 1977, the Legal Services Corporation Act was amended by Public Law 95-222 to extend the authorization for appropriations for the Corporation for three additional fiscal years 1978-80. During fiscal year 1981 the Corporation has been funded at \$321.3 million through a continuing appropriation (Public Law 96-536). The Legal Services Corporation has requested a three-year extension of authorization for appropriation at levels of \$400 million (fiscal year 1982), \$450 million (fiscal year 1983), and \$500 million (fiscal year 1984). All previous extensions were for three-year periods.

The secondary purpose of H.R. 3480 is to amend the Legal Services Corporation Act in several substantive ways to respond to many of the issues which were raised during the seven days of reauthorization/oversight hearings (beginning on March 17 and concluding on April 7) and during the 96th Congress. Several sub-

stantive amendments are incorporated in H.R. 3480, including additional restrictions on class actions, lobbying, representation in abortion, homosexual rights and alien matters, and strikes by employees of local programs. In addition the private bar is offered an increased role in the delivery of legal services and in the governance of nonprofit recipient organizations through relevant bar associations. The Legal Services Corporation and its recipients are made more liable for attorneys fees if they lose cases, while the recipients are generally not allowed such fees. The Corporation is given increased sanctions and streamlined procedures to enforce the Legal Services Corporation Act.

Although many substantive restrictions were added to the Legal Services Corporation Act by H.R. 3480, it is fair to say that most of the witnesses at the extensive hearings recommended current or increased funding levels and few, if any, additional restrictions. Continuation of the Legal Services Corporation has been supported by over 60 national organizations, 200 bar groups, and several thousand persons—including judges, public officials, and clients.

BACKGROUND

A. HISTORY OF THE LEGAL SERVICES CORPORATION

In 1974, Congress passed the Legal Services Corporation Act of 1974 (Public Law 93-355), which created a private, nonmembership, non-profit corporation whose main purpose is to provide financial support to civil legal services programs for assistance to those persons unable to afford legal assistance in the nation. The Corporation is not a department, agency, or instrumentality of the Federal Government and was established to be independent of the Executive Branch so that legal assistance would be insulated from partisan pressures and would be delivered based on independent professional judgment.

The program was previously carried out by the Office of Economic Opportunity (OEO) and later by the Community Services Administration, which was part of the Executive Branch. In 1965, OEO established the first national legal services program for the poor. Prior to that time legal services depended on the generosity and attitudes of the local private bar and the local governments.

The first legal aid society was established in New York City in 1876. Slowly other societies were formed, primarily in urban settings. However as the number of poor persons increased and the legal problems grew more complex, it was recognized that legal aid societies could not meet the needs of the poor, nor was there a consistent source of legal assistance nationwide.

The legal services program established through OEO in 1965 was the first effort to improve access to justice nationwide, and the program demonstrated its value to the disadvantaged. However, in the early 1970's politics crippled the program and froze its budgets. For five years, the level of funding remained at \$71 million, as numerous projects were closed, and inflationary costs of 30 percent decimated the projects. The American Bar Association, the National Legal Aid and Defender Association, clients, and others urged Congress to remedy the situation by creating an independent corporation. Through the efforts of many, and strong bi-partisan support,

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the Legal Services Corporation Act was passed in 1974. The Corporation's Board of Directors was installed on July 14, 1975. The Corporation assumed full responsibility for the program from the Community Services Administration in October 1975.

B. STRUCTURE OF THE LEGAL SERVICES CORPORATION AND ITS RECIPIENTS

The Corporation is a private corporation incorporated in the District of Columbia. It is governed by an eleven-member Board of Directors appointed by the President with the advice and consent of the Senate. No more than six members may be from the same political party, and none may be a Federal government employee. A majority of the Board must be members of the bar of the highest court, and at least two must be eligible clients. The Board is required to be generally representative of the organized bar, attorneys providing legal assistance to eligible clients, and the general public, as well.

All present directors are noted as follows:

1. F. William McCalpin, Esq. Chairman (St. Louis, Missouri).
2. Steven L. Engelberg, Esq. (Washington, D.C.).
3. Cecelia D. Esquer, Esq. (Phoenix, Arizona).
4. Robert J. Kutak, Esq. (Omaha, Nebraska).
5. Michael Kantor, Esq. (Los Angeles, California).
6. Hillary Rodham, Esq. (Little Rock, Ark.).
7. Revius P. Ortique, Jr., Esq. (New Orleans, Louisiana).
8. Howard R. Sacks, Esq. (West Hartford, Connecticut).
9. Ramona Shump (client) (Topeka, Kansas).
10. Richard Trudell, Esq. (Oakland, California).
11. Josephine Worthy (client) (Holyoke, Massachusetts).

The administration of the Corporation is directed by the President of the Corporation, Dan J. Bradley. The first president of the Corporation was Mr. Thomas Ehrlich, formerly the Dean of the Stanford University Law School, who resigned the presidency in 1979.

The Corporation has its headquarters in the District of Columbia, and nine regional offices. These offices are located in Boston, Massachusetts; New York City, New York; Philadelphia, Pennsylvania; Chicago, Illinois; Atlanta, Georgia; Denver, Colorado; San Francisco, California; Rosslyn, Virginia; and Seattle, Washington. The total staff of the Corporation is 307 (210 in Washington, D.C. and 97 in the regional offices). The officers and employees of the Corporation are not officers or employees of the Federal Government. Approximately two percent of the total appropriations are used for central administration. More than 90 percent goes directly to the field programs. The balance is allocated for activities that support the field.

The Corporation does not directly represent clients. Rather, it provides funds to local programs to support their provision of legal services. At the beginning of fiscal year 1981, there were 323 legal services programs throughout the 50 States, the Virgin Islands, the District of Columbia, Puerto Rico and Micronesia. The 323 programs include 290 basic field programs (including 29 migrant components and 12 Native American components), 3 migrant programs, 8 Native American programs, 5 state support programs, and 17 na-

tional support centers. The support centers provide specialized legal assistance to eligible clients and to programs in their representation of clients. Some of the support centers concentrate on areas of law that particularly affect the poor, such as welfare, health and housing. Others specialize in laws affecting certain groups of poor people: migrants, Native Americans and the elderly.

Local programs set their own client eligibility standards within guidelines established by the Corporation. Those guidelines set maximum eligibility at 125 percent of the poverty level established by the Office of Management and Budget. (As of May 4, 1981, maximum eligibility for an individual was \$5,388 and \$10,563 for a family of four).

Programs provide legal representation and counseling in a wide range of civil matters. They do not provide criminal representation. Most of the legal problems of eligible clients fall into four broad categories: family law; administrative benefits, including medicaid, AFDC, and SSI; consumer law; and housing law. Approximately 15 percent of the cases are actually litigated. Approximately 85 percent are resolved through advice, negotiation, consultation and other out-of-court mechanisms.

Local programs are currently staffed by some 6,200 full-time attorneys, 2,800 paralegal assistants, and 7,000 support persons. There are 1,450 neighborhood offices in 3,106 counties. Because none of the programs have sufficient resources to meet the needs of all these eligible for legal assistance, the Legal Services Corporation Act and the Corporation's regulations require each program to set its own priorities for service based on an assessment of client needs and available resources in the local community. Reliance on locally determined policies, rather than nationally set priorities, has been a major reason for the success of the program.

Each program which is funded by the Corporation is termed a "recipient," and each recipient must be governed by a locally selected board. The Legal Services Corporation Act requires that at least 60 percent of the governing board be a member of the bar of a State in which legal services is to be provided, and that at least one-third of the board be composed of persons who are, when selected, eligible clients who may also be representatives of associations or organizations of eligible clients. The governing body must reasonably reflect the interests and characteristics of the eligible clients in the area to be served.

During 1980 the private bar increased its role in the delivery of legal services. Ninety-six of the programs had a pro bono component; 64 had contracts with private attorneys; 7 had supplemental judicare units; and 10 programs were primarily judicare. Also \$500,000 was set aside to encourage a 50-50 cash match by the local bar in developing more pro bono programs.

C. DELIVERY OF LEGAL SERVICES

The present national legal services program is basically a locally directed program. The Legal Services Corporation awards grants directly to independent non-profit organizations which are locally controlled grantees governed by a board of directors, of which at least 60 percent are local attorneys and at least one-third are low income persons who are eligible for legal assistance. These pro-

centers provide specialized programs in their representation. Centers concentrate on the poor, such as welfare, laws affecting certain Americans and the elderly. Eligibility standards within. Those guidelines set poverty level established (As of May 4, 1981, maximum \$5,388 and \$10,563 for a

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SERVICES

Program is basically a locally Corporation awards grants organizations which are locally of directors, of which at least one-third are low legal assistance. These pro-

grams, in consultation with the client community, set priorities regarding the types of cases which they will handle. It is impossible for them to handle every case referred to them.

Of the 1.5 million matters handled by legal services programs in fiscal year 1980, only 15 percent resulted in litigation. The other matters were handled outside the courtroom through counseling, negotiation and other means. The representation provided to poor persons was in a variety of categories of cases:

Family, made up 30 percent, consisting of adoption, custody, divorce, support, parental rights, spouse abuse and family-related matters.

Income maintenance and housing, each made up between 17 and 18 percent.

Consumer, made up 14 percent, consisting of contracts, warranties, credit matters, debt collection and sales practices, as well as public utilities and energy related issues.

Education, juveniles, health, individual rights, and employment, constituted 9.4 percent.

Miscellaneous, such as torts, tribal matters, wills, auto licenses, made up 11.7 percent.

Only about 2/10 of 1 percent of these cases were "class actions."

It is estimated, based on the 1970 Census, that there are 30 million poor persons eligible for free legal assistance. The 1980 Census and the present unemployment rate may increase this number.

LSC is a very efficient program spending more than 90 percent of its resources on the direct provision of legal services to the 323 programs. Only approximately 3 percent is spent on administration and monitoring.

STATEMENT

The committee has exercised close oversight of the Legal Services Corporation since the Board of the Corporation was installed. Several days of hearings have been held by the subcommittee on Courts, Civil Liberties, and the Administration of Justice over the course of the 94th, 95th, 96th, and 97th Congresses. Board meetings and regulations have been closely monitored, as have the investigations and studies of the General Accounting Office.

The Legal Services Corporation through its officers and staff have worked cooperatively with the committee to improve the operations of the Corporation. For example, after a hearing on May 22, 1978, concerning the expansion process, the Corporation modified its expansion procedures to expand notice to interested persons and bar groups, as recommended by subcommittee members.

Another area in which the Corporation has been encouraged to change its procedures is in the monitoring of legislative advocacy by its recipients. Therefore, the subcommittee reviewed the issue, consulted with the Corporation, and conducted an investigative trip to California to look into specific complaints. As a result the subcommittee encouraged the Corporation to tighten the reporting requirements of its recipients, to centralize the information on each program's legislative activities, and to develop uniform guidelines for all recipients' activities in the legislative field. President Bradley expressed his willingness to do so, and the Board of Directors has modified the regulation.

The committee believes that the Legal Services Corporation's continuation is necessary to the delivery of justice to this nation's poor persons. Administration proposals to eliminate the Corporation and rely on the block grant approach and the private bar are considered unfeasible. Several witnesses, including the American Bar Association, the Honorable Harold Tyler, and the Attorney General of Maryland, Honorable Stephen Sachs, testified about the defects in the above approach.

The Committee strongly believes that the Corporation should be continued as the primary vehicle for delivery of legal services to the nation's poor. Reluctantly, but in light of the needs for fiscal restraint, it has reduced its funding level 20 percent (despite an inflation rate exceeding 10 percent) from the fiscal year 1981 level of \$321.3 million, resulting in a 25 percent savings based on the previous Administration's Budget Request. Although this will result in diminished services and a reduction from "minimum" access (2 attorneys per 10,000 poor persons), it is expected that the cutbacks will be resolved by the Board in an equitable way, so that no segment will be denied some access to legal services.

For comparison purposes, the following table indicates past authorization and appropriation levels for LSC.

[In millions of dollars]

	Authorization	Appropriation
Fiscal year:		
1975.....	\$90	
1976.....	100	¹ \$116.0
1977 ²	(³)	125.0
1978.....	205	205.0
1979.....	(³)	270.0
1980 ⁴	(³)	300.0
1981.....		321.3

¹ Since the Corporation Board first met in July of 1975, and the fiscal year was changed from July 1 to October 1 as of 1976, the Corporation received funding for fiscal year 1976 and the 90-day transition period (July 1, 1976-Sept. 30, 1976).

² Public Law 93-355 covered fiscal years 1975-1977.

³ Such sums as may be necessary.

⁴ Public Law 93-222 covered fiscal years 1978-1980.

The Committee has left existing restrictions on the Corporation and recipients in the Act, but has also added new ones mentioned previously. A detailed statement is contained in the section by section analysis.

ESTIMATED COST OF THE LEGISLATION

The Committee has voted to extend the Legal Services Corporation for two more fiscal years, and to authorize funding of \$260 million for each such year. Therefore, the estimated cost of this legislation is \$260 million for fiscal year 1982 and \$260 million for fiscal year 1983.

INFLATION IMPACT STATEMENT

The bill will have no foreseeable inflationary impact on prices or costs in the operation of the national economy.

OVERSIGHT

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LEGISLATION

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Oversight of the Legal Services Corporation is the responsibility of the Committee on the Judiciary, which has monitored the Corporation since its inception in July 1975. Several days of hearings have been held during each Congress. The Committee finds that the Corporation is performing efficiently and effectively, and has an impressive record of accomplishments.

STATEMENT OF THE COMMITTEE ON GOVERNMENT OPERATIONS

No statement has been received on the legislation from the House Committee on Government Operations.

NEW BUDGET AUTHORITY

The bill creates no new budget authority for the Legal Services Corporation.

STATEMENT OF THE CONGRESSIONAL BUDGET OFFICE

Pursuant to clause 7, rule XIII of the Rules of the House of Representatives, and section 403 of the Congressional Budget Act of 1974, the following is the cost estimate on H.R. 3480 prepared by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., May 15, 1981.

Hon. PETER W. RODINO, Jr.
*Chairman, Committee on the Judiciary, U.S. House of Representa-
tives, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 3480, the Legal Services Corporation Act Amendments of 1981.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

RAYMOND C. SCHEPPACH
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 3480.
2. Bill title: Legal services Corporation Act Amendments of 1981.
3. Bill status: As ordered reported by the House Committee on the Judiciary, May 13, 1981.
4. Bill purpose: The bill authorizes the annual appropriation of \$260 million for fiscal years 1982 and 1983 for the Legal Services Corporation. In addition, the bill prohibits the use of funds for lobbying, filing of class action suits against the government, and amends the enforcement and sanctions provisions of the authorizing legislation.

The level authorized in the bill for 1982 is \$61 million less than the \$321 million appropriated for fiscal year 1981. The President has requested no funding for Legal Services in fiscal year 1982.

5. Cost estimate:

[By fiscal years, in millions of dollars]

	1982	1983	1984	1985	1986
Authorization level.....	260	260			
Estimated outlays.....	224	260	36		

Including outlays from 1981 and prior years' budget authority appropriated to date, total outlays for the Legal Services Corporation will be \$269 million in 1982, assuming appropriation of the authorized amounts.

The costs of this bill fall within budget function 750.

6. Basis of estimate: The estimate assumes that the amounts authorized in fiscal years 1982 and 1983 will be appropriated. The estimate of annual outlays is based on an analysis of historical spending patterns.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Jeffrey W. Nitta.

10. Estimate approved by:

C. G. NUCKOLS
(For James L. Blum,
Assistant Director for Budget Analysis).

COMMITTEE VOTE

On May 13, 1981, H.R. 3480 was reported favorably, as amended, by the Committee on the Judiciary, by a recorded vote, 22-6, with 17 members being present.

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

The short title is "Legal Services Corporation Act Amendments of 1981".

SECTION 2. STATE ADVISORY COUNCILS

State advisory councils are mandated, restructured, and given additional powers and responsibilities to review grant and contract applications and alleged violations by programs. The Governor of each State has appointment powers, but if he/she fails to act within a specified time, the Legal services Corporation must act to appoint such councils. Currently, State advisory councils are discretionary, and not all Governors have chosen to exercise this authority. The Committee bill revises this section of the current law to mandate their existence and to provide them with increased powers and responsibilities.

SECTION 3. QUALIFICATIONS OF RECIPIENTS

All recipient organizations providing legal services would have to be non-profit organized solely for the purpose of providing legal assistance to eligible clients, and would have to have 60 percent attorneys on their local boards as under section 1007(c) of the current law, and would have to have a majority of the board appointed by the relevant bar associations in the service area, according to the Committee bill. Those bar associations which represent a majority of the attorneys in the service area would be able to appoint a majority of the board. The Corporation would develop regulations on this procedure, and revise the current regulation. In determining the majority bar association(s) the Corporation could decide that if no one bar association represented the majority of attorneys in that service area (eg. in a multi-county service area) that several bar associations (eg., one from each county) could collectively appoint the majority of the board. State bars would also likely play a role in the appointment process. This new language would not affect the appointment of clients or non-lawyers to these boards. Nor would it prevent the minority bar associations (eg., women's bars) from appointing some of the additional attorneys on the board. All members of the board should generally be supportive of legal services, and should be reflective of the interests of the eligible clients in the service area. Procedures would have to be developed to prevent conflicts of interest relating to board members.

SECTION 4. ENFORCEMENT AND SANCTIONS

Under section 4(a) enforcement of the Legal services Corporation Act is strengthened by an amendment providing new sanctions, (e.g., suspension of an employee of a local program by the President of the Legal Services Corporation), for violations of the Act.

Section 4(b)(1) of the H.S. 3480 repeals Section 1011 of the Act. Section 1011 provides a recipient with notice and an opportunity for an administrative hearing. Section 4(a) retains such procedures only for termination or suspension of a recipient but provides no prior hearing for a denial of an application for refunding. While an application for refunding is pending, section 4(c) provides that the Corporation should provide interim funding sufficient to allow for the continuation of representation of clients on whose behalf litigation, negotiation, or other forms of representation have been initiated.

Section 4(d) removes the right of employees of legal services recipients to strike on their jobs.

"The Corporation shall ensure that no employee of the Corporation or of any recipient while carrying out legal assistance activity under this title, engage in or encourage others to engage in, any public demonstration, picket, boycott, or strike."

Now, the effect of striking the parenthetical expression is to eliminate the right of Legal Services Corporation employees to strike. This amendment is not intended to prevent Legal Services Corporation employees from unionizing or from bargaining collectively. But, if such leads to a disruption of services to the poor by a strike, that program or some of its employees will be jeopardizing the funding of the program or possibly their own employment.

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C. G. NUCKOLS
(For James L. Blum,
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The language reads that the "Corporation shall ensure that no employee engages in" a strike. The Corporation would be expected to work out, through rules and regulations, some alternative to the strike which would not permit a disruption of services to the poor. For example, an agreement with a union to submit to arbitration when negotiations have broken down.

There are approximately 323 programs around the country funded by the Legal Services Corporation, and of these programs sixty-five to seventy have already been unionized, with numerous other programs involved in various stages of labor organizing. This unionization has occurred over the last two years and there does seem to be a trend toward the unionization of programs, both clerical and attorneys.

In 1979, the investigative staff of the Appropriations Committee conducted an investigation of the Legal Services Corporation and its programs and made the following observations:

The investigative staff was told the impact of unionization resulted in an estimated 15-20 percent increase in salaries in the first year of organization of a program. One program immediately cut staff by 23 percent, with a corresponding curtailment of activities. There have been slowdowns and strikes; all of the employees of the large New York City program were out for a week in November, 1977, due to an impasse in labor negotiations. The clerical staff of a California program were on strike for nine and a half weeks beginning on March 6, 1978, and the regional office of LSC in New York City was picketed by employees of a program with signs and placards in November, 1978. A four-person union formed in one of the national support centers engaged in an unsuccessful campaign to oust the project director and then went on strike, which was finally resolved in the early summer of 1978 with the termination of their employment.

Since November, 1975, there have been nine strikes. The largest Legal Services Corporation recipient of federal funds is a New York City program, and last year it was involved in an eleven week strike by its attorneys. Legal Services to the poor was practically nonexistent in this area during the strike. When the strike occurred, 32,000 cases were pending and for eleven weeks approximately 200 cases a day had nowhere to go.

No one doubts that unions can have a beneficial effect by keeping management alert to good practices, but there is also a definite erosion in the working relationship and rapport between management and staff. Strikes within the legal services program tend to polarize the people involved, with the loser oftentimes being the poor. Such program managers are tied up for weeks in extended negotiations, thereby preventing them from attending to normal services to the poor.

SECTION 5. PROHIBITIONS ON LOBBYING

Under section 5(a) Corporation employees and officers are prohibited from lobbying and placed under the anti-lobbying provision of Section 1913 of title 18, U.S.C., which also provides criminal penal-

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ties for violation of its provisions. Sec. 5(b) adds further restrictions on employees of recipients. Employees of recipient programs are also prohibited from lobbying unless their contact with the legislature is related to a "particular application, claim, or case, which directly involves that particular client's legal rights," unless a governmental agency, legislative body, legislative committee, or a member of such committee formally requests that the recipient employee testify or make representations to such agency or body. Such testimony and representations can only be made to the requestor.

H.R. 3480 modifies current law to remove the explicit exception for legal services programs to lobby on their own behalf or on behalf of the Corporation before Congress, to specifically prohibit propaganda and publicity designed to influence the introduction, passage or defeat of legislation.

The current restrictions in the Act on lobbying by recipients did not explicitly preclude publicity or propaganda activities. Considerable controversy has developed over interpretations of the Act and appropriation riders regarding the scope of the restrictions. H.R. 3480 clarifies the extent of the restrictions on lobbying by adding to the restrictions a prohibition on engaging in publicity or propaganda designed to influence the introduction, passage or defeat of legislation.

The Committee bill also clarifies what is permitted under the remaining two explicit exceptions. Under the first exception, legal services programs can only engage in legislative or administrative advocacy when representing an eligible client on a particular application, claim or case which directly involves the client's legal rights and responsibilities. This language is intended to specifically prohibit representation on matters of general concern to a broad class of persons as distinguished from acting on behalf of any particular eligible client. Legislative or administrative representation is permitted only where such representation is necessary to effectuate a client's legal rights and responsibilities or in situations in which the client would be directly affected by legislative or administrative rules, policies or provisions which were proposed or already pending.

SECTION 6. LIMITATIONS ON CLASS ACTIONS

No class actions may be brought against governmental entities, (Federal, State or local), except in accordance with policies, rules or regulations adopted by the Board of Directors of the Corporation.

SECTION 7. LIABILITY FOR ATTORNEYS' FEES

The Legal Services Corporation and local programs are made more liable to opponents for attorneys' fees and other costs if their actions had no reasonable basis in law or fact.

SECTION 8. NEGOTIATION REQUIREMENT

Programs will be required to attempt to negotiate settlements of controversies before filing suit.

SECTION 9. PRIVATE BAR INVOLVEMENT

The Corporation is authorized where feasible, economical, and efficient, to make substantial amounts of funds available to private attorneys to provide the opportunity for legal assistance to be rendered to eligible clients.

The Corporation shall issue rules and regulations to provide that compensation to private lawyers shall not exceed reasonable costs and expenses and the Corporation shall develop suitable criteria for determining the amount of such reasonable costs and expenses.

The amendment requires that grants of funding for legal services delivered by the private bar must be consistent with Section 1007(a)(3) of the Act, which section requires that grants and contracts be made so as to provide "the most economical and effective delivery of legal services."

SECTION 10. AWARDS OF ATTORNEYS' FEES

Under current law legal services recipients are allowed to accept attorneys' fees when awarded by courts or administrative agencies. The Committee bill restricts the current law and requires that local programs (recipients) transfer attorneys' fees recovered in litigation to the Corporation. This new requirement does not apply to fees awarded as a result of a mandatory court appointment or to the reasonable costs of litigation customarily allowed in litigation against a losing party.

SECTION 11. ADDITIONAL RESTRICTIONS ON USE OF FUNDS

Section 11(1) provides that no funds may be used to support or conduct training programs advocating particular policies or activities, including the dissemination of information advocating or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes and demonstrations.

Section 11(2) provides that no funds may be used for legal assistance with respect to any proceeding or litigation relating to abortion unless such abortion is necessary to save the life of the mother.

The amendment is intended to preclude the great proportion of abortion litigation by legal services programs. The only litigation allowed must involve the life of the mother.

While some members of the Committee were concerned about the exception for legal advice, this exception would not extend to litigation or other proceedings. It simply indicates that clients requesting advice about the state of abortion law may be provided that advice as well as referred to attorneys who might be able to assist them.

Section 11(3) provides that no legal assistance can be provided to a known illegal alien. This restriction is contained in the Current Appropriation Act, Public Law 96-536.

Section 11(4) provides that no legal aid staff attorney is allowed to litigate a case to legalize homosexuality. This restriction is contained in the current Appropriation Act.

SECTION 12. DOCUMENTATION OF ELIGIBILITY

The Legal Services Corporation will require each program to maintain documentation on the eligibility of its clients, (which shall be subject to regular review), as well as to document all activities relating to legislative and administrative representation.

Section 12 of the bill amends section 1008 of the Act relating to records and reports to be maintained by the Corporation and its grantees by adding a new subsection (f) requiring grantees to maintain documentation of eligibility with respect to the legal assistance and representation provided. Under the Act, when funding is provided for legal assistance, recipients have an obligation to assure that they are serving eligible clients. However, the Act has not specifically required Corporation review of such records. This new subsection adds such specific requirements to assure that both grantees and the Corporation will adequately fulfill their obligations. Recipients will be required to maintain documentation demonstrating the eligibility of clients served and conformity with the provisions of section 1007(a) (5) (A) or (B) in the case of legislative or administrative representation, and the Corporation will be required to review such documentation to assure compliance with this requirement.

SECTION 13. FINANCING

(1) The authorization for appropriations is extended for fiscal years 1982 and 1983 at \$260 million for each of those years, representing a 25 percent reduction from the \$347 million (fiscal year 1982) recommendation of President Carter, and a 20 percent reduction from Legal Services Corporation's present funding level of \$321.3 million.

(2) Not more than 7 percent, (now 10 percent), of the annual appropriation of the Legal Services Corporation may be spent on grants or contracts for specialized research, training, technical assistance, and clearinghouse functions. No funds may be spent through grants or contracts on broad general legal research unrelated to representation of eligible clients.

SECTION 14. TECHNICAL AMENDMENTS

These are technical and conforming amendments only.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

LEGAL SERVICES CORPORATION ACT

* * * * *

GOVERNING BODY

SEC. 1004. (a) * * *

* * * * *

[(f) Within six months after the first meeting of the Board, the Board shall request the Governor of each State to appoint a nine-member advisory council for such State. A majority of the members of the advisory council shall be appointed, after recommendations have been received from the State bar association, from among the attorneys admitted to practice in the State, and the membership of the council shall be subject to annual reappointment. If ninety days have elapsed without such an advisory council appointed by the Governor, the Board is authorized to appoint such a council. The advisory council shall be charged with notifying the Corporation of any apparent violation of the provisions of this title and applicable rules, regulations, and guidelines promulgated pursuant to this title. The advisory council shall, at the same time, furnish a copy of the notification to any recipient affected thereby, and the Corporation shall allow such recipient a reasonable time (but in no case less than thirty days) to reply to any allegation contained in the notification.]

(f) Within 90 days after the date of enactment of the Legal Services Corporation Act Amendments of 1981, the Board shall request the Governor of each State to appoint a ten member advisory council for such State. A majority of the members of the advisory council shall be appointed, after recommendations have been received from the State bar association, from among the attorneys admitted to practice in the State, and the membership of the council shall be subject to annual reappointment. The other members of the council shall include two eligible clients and two members of the general public from that State. If 90 days have elapsed after such request without such an advisory council being appointed by the Governor, the Board shall appoint such a council. The advisory council shall be charged with notifying the Corporation of any apparent violation of the provisions of this title and applicable rules, regulations, and guidelines promulgated pursuant to this title. The advisory council shall, at the same time, furnish a copy of the notification to any recipient affected thereby, and the Corporation shall allow such recipient a reasonable time (but in no case less than 30 days) to reply to any allegation contained in the notification. The Corporation and recipients shall notify the relevant State advisory councils promptly of any alleged violations of this title by recipients or their employees. At least 60 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly such grant, contract, or project and shall send notification thereof to the advisory council of any State in which legal assistance will be provided as a result of the grant, contract, or project. Notification shall include a specific description of the grant application or proposed contract or project and a request for comments and recommendations thereon. The council shall be given a reasonable opportunity to review and comment on such alleged violations and on such grants, contracts, and projects.

* * * * *

POWERS, DUTIES, AND LIMITATIONS

SEC. 1006. (a) To the extent consistent with the provisions of this title, the Corporation shall exercise the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act (except for section 1005(o) of title 29 of the District of Columbia Code). In addition, the Corporation is authorized—

[(1)(A) to provide financial assistance to qualified programs furnishing legal assistance to eligible clients, and to make grants to and contracts with—

[(i) individuals, partnerships, firms, corporations, and nonprofit organizations, and

[(ii) State and local governments (only upon application by an appropriate State or local agency or institution and upon a special determination by the Board that the arrangements to be made by such agency or institution will provide services which will not be provided adequately through nongovernment arrangements),

for the purpose of providing legal assistance to eligible clients under this title, and (B) to make such other grants and contracts as are necessary to carry out the purposes and provisions of this title;]

(1) to provide financial assistance to and to make grants to and contracts with—

(A) qualified nonprofit organizations chartered under the laws of one of the States for the sole purpose of furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance, and

(B) private attorneys for the sole purpose of furnishing legal assistance to eligible clients pursuant to the provisions of section 1007(a)(12);

(b)(1)(A) The Corporation shall have the authority to insure the compliance of recipients and their employees with the provisions of this title and the rules, regulations, and guidelines promulgated pursuant to this title, and to terminate, after a hearing in accordance with [section 1011,] paragraph (5) of this subsection, financial support to a recipient which fails to comply.

(1)(B) No question of whether representation is authorized under this title, or the rules, regulations or guidelines promulgated pursuant to this title, shall be considered in, or affect the final disposition of, any proceeding in which a person is represented by a recipient or an employee of a recipient. A litigant in such a proceeding may refer any such question to the Corporation which shall review and dispose of the question promptly, and take appropriate action. This subparagraph shall not preclude judicial review available under applicable law.

(2) If a recipient finds that any of its employees has violated or caused the recipient to violate the provisions of this title or the rules, regulations, and guidelines promulgated pursuant to this title, the recipient shall take appropriate remedial or disciplinary action in accordance with the types of procedures prescribed in [the provisions of section 1011] *regulations promulgated pursuant to the last sentence of paragraph (5) of this subsection.*

* * * * *

(5) The Corporation shall insure that (A) no employee of the Corporation or of any recipient [(except as permitted by law in connection with such employee's own employment situation)], while carrying out legal assistance activities under this title, engage in, or encourage others to engage in, any public demonstration or picketing, boycott, or strike; and (B) no such employee shall, at any time, engage in, or encourage others to engage in, any of the following activities: (i) any rioting or civil disturbance, (ii) any activity which is in violation of an outstanding injunction of any court of competent jurisdiction, (iii) any other illegal activity, or (iv) any intentional identification of the Corporation or any recipient with any political activity prohibited by section 1007(a)(6). [The Board, within ninety days after its first meeting, shall issue rules and regulations to provide for the enforcement of this paragraph and section 1007(a)(5), which rules shall include, among available remedies, provisions, in accordance with the types of procedures prescribed in the provision of section 1011, for suspension of legal assistance supported under this title, suspension of an employee of the Corporation or of any employee of any recipient by such recipient, and, after consideration of other remedial measures and after a hearing in accordance with section 1011, the termination of such assistance or employment, as deemed appropriate for the violation in question.] *The Board, within 30 days after the date of enactment of the Legal Services Corporation Act Amendments of 1981, shall issue regulations to provide for the enforcement of this title, which regulations shall include, among available remedies, provisions for the immediate suspension of financial assistance under this title, suspension of an employee of the Corporation or any employee of any recipient by such recipient or by the President of the Corporation, and the reduction or termination of such assistance or employment as deemed appropriate for the violation involved. Financial assistance under this title shall not be terminated or suspended for a period of more than 30 days unless the recipient, grantee, or contractor has been afforded reasonable notice and an opportunity for a fair hearing pursuant to regulations promulgated by the Corporation.*

* * * * *

[(c) The Corporation shall not itself—

[(1) participate in litigation unless the Corporation or a recipient of the Corporation is a party, or a recipient is representing an eligible client in litigation in which the interpretation of this title or a regulation promulgated under this title is an issue, and shall not participate on behalf of any client other than itself; or

[(2) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State

employees has violated or provisions of this title or the promulgated pursuant to this title remedial or disciplinary procedures prescribed in regulations promulgated pursuant to this subsection.

* * *

(A) no employee of the Corporation is permitted by law in connection with any employment situation), while under this title, engage in, or cause to be engaged in, public demonstration or picketing; (B) no employee shall, at any time, engage in, or cause to be engaged in, any of the following: (i) any act of disturbance, (ii) any activity in violation of an injunction of any court of law, (iii) any illegal activity, or (iv) any interference with the operation of any recipient with section 1007(a)(6). [The Board, upon request, shall issue rules and regulations pursuant to this paragraph and section 1007(a)(6), among other available remedies, for suspension of legal assistance to any employee of any recipient by such recipient for any violation of remedial measures and after the termination of such assistance, the termination of such assistance shall be appropriate for the violation of this title after the date of enactment of the Act Amendments of 1981, the enforcement of this title, and the availability of remedies, providing financial assistance under this title to the Corporation or any employee of the Corporation or by the President of the Corporation or by the termination of such assistance or the violation involved. Financial assistance shall not be terminated or suspended unless the recipient, grantee, or contractor receives reasonable notice and an opportunity to be heard in accordance with the regulations promulgated by the Corporation.]

* * *

... the Corporation or a recipient, or a party, or a recipient is representing an eligible client in litigation in which the interpretation of this title or a regulation promulgated under this title is an issue, and shall not participate on behalf of any client other than itself. The provisions of section 1913 of title 18, United States Code, shall apply to all officers and employees of the Corporation.

... passage or defeat of any legislation by the United States or by any State

or local legislative bodies, except that personnel of the Corporation may testify or make other appropriate communication (A) when formally requested to do so by a legislative body, a committee, or a member thereof, or (B) in connection with legislation or appropriations directly affecting the activities of the Corporation.]

(c) The Corporation shall not itself participate in litigation unless the Corporation or a recipient of the Corporation is a party, or a recipient is representing an eligible client in litigation in which the interpretation of this title or a regulation promulgated under this title is an issue, and shall not participate on behalf of any client other than itself. The provisions of section 1913 of title 18, United States Code, shall apply to all officers and employees of the Corporation.

(d)(1) * * *

* * *

(5) No class action suit, class action appeal, or amicus curiae class action may be undertaken, directly or through others, by a staff attorney, except with the express approval of a project director of a recipient in accordance with policies established by the governing body of such recipient. No class action suit may be brought against the Federal Government or any State or local government except in accordance with policies or regulations adopted by the Board.

* * *

[(f) If an action is commenced by the Corporation or by a recipient and a final order is entered in favor of the defendant and against the Corporation or a recipient's plaintiff, the court shall, upon motion by the defendant and upon a finding by the court that the action was commenced or pursued for the sole purpose of harassment of the defendant or that the Corporation or a recipient's plaintiff maliciously abused legal process, enter an order (which shall be appealable before being made final) awarding reasonable costs and legal fees incurred by the defendant in defense of the action, except when in contravention of a State law, a rule of court, or a statute of general applicability. Any such costs and fees shall be directly paid by the Corporation.]

(f) If an action is commenced by the Corporation or by a recipient and a final order is entered in favor of the defendant and against the Corporation or a recipient's plaintiff, the court shall, upon motion by the defendant and upon a finding by the court that the action had no reasonable basis in law or fact, enter an order (which shall be appealable before being made final) awarding reasonable costs and legal fees incurred by the defendant in defense of the action, except when in contravention of a State law, a rule of the court, or a statute of general applicability. Any such costs and fees shall be directly paid by the Corporation.

GRANTS AND CONTRACTS

SEC. 1007. (a) With respect to grants or contracts in connection with the provision of legal assistance to eligible clients under this title, the Corporation shall—

(1) * * *

* * * * *

[(5) insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies, or State proposals by initiative petition, except where—

[(A) representation by an employee of a recipient for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit an attorney or a recipient employee to solicit a client, in violation of professional responsibilities, for the purpose of making such representation possible); or

[(B) a governmental agency, legislative body, a committee, or a member thereof—

[(i) requests personnel of the recipient to testify, draft, or review measures or to make representations to such agency, body, committee, or member, or

[(ii) is considering a measure directly affecting the activities under this title of the recipient or the Corporation.]

“(5) insure that no funds made available to any recipient shall be used at any time, directly or indirectly, to attempt to influence any decision by a Federal, State, or local agency, to attempt to influence, directly or indirectly, through publicity, propaganda, or otherwise, the introduction, passage, or defeat of any legislation in the Congress of the United States, or in any State or local legislative body, or to attempt to influence State proposals by initiative petition, except where—

(A) legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case, which directly involves that client's legal rights and responsibilities, except that this subparagraph shall not be construed to permit a staff attorney or any other employee of a recipient to solicit a client, in violation of professional responsibilities, for the purpose of making such representation possible; or

(B) a governmental agency, a legislative body or a committee thereof, or a member of such a legislative body or committee formally requests that an employee of a recipient testify or make representations to such agency, legislative body, committee, or member, in which case the employee may respond only to the agency, legislative body, committee, or member making the request.

[(9) insure that every grantee, contractor, or person or entity receiving financial assistance under this title or predecessor authority under this Act which files with the Corporation a timely application for refunding is provided interim funding necessary to maintain its current level of activities until (A) the application for refunding has been approved and

funds pursuant thereto received, or (B) the application for refunding has been finally denied in accordance with section 1011 of this Act; and]

(9) insure that every grantee, contractor, or person or entity receiving financial assistance under this title that files with the Corporation a timely application for refunding is provided interim funding, pending the decision of the Corporation on the application, sufficient to allow for the continuation of representation of clients on whose behalf litigation, negotiation, or other forms of representation have been initiated;

(10) insure that all attorneys, while engaged in legal assistance activities supported in whole or in part by the Corporation, refrain from the persistent incitement of litigation and any other activity prohibited by the Canons of Ethics and Code of Professional Responsibility of the American Bar Association, and insure that such attorneys refrain from personal representation for a private fee in any cases in which they were involved while engaged in such legal assistance activities[.];

(11) require recipients to attempt to negotiate a settlement of controversies before filing suit in order to prevent the persistent incitement of litigation and to encourage the resolution of such controversies through compromise and settlement rather than through litigation, except that nothing in this paragraph shall preclude attorneys from immediately filing suit where the circumstances of the case, as determined by the local program director, require immediate action to protect the interests of a client;

(12) in each fiscal year, to the extent feasible and consistent with paragraph (3) of this subsection, make available substantial amounts of funds to provide the opportunity for legal assistance to be rendered to eligible clients by private attorneys, except that the Corporation shall issue regulations to provide that compensation to private attorneys for rendering such legal assistance shall not exceed reasonable costs and expenses and the Corporation shall develop suitable criteria for determining the amount of such reasonable costs and expenses; and

(13) insure that any recipient who receives an award of attorney's fees shall, notwithstanding any other provision of law, transfer such fees to the Corporation, except that (A) no recipient shall be required to transfer fees or other compensation received as a result of a mandated court appointment, and (B) a recipient may retain reasonable costs customarily allowed in litigation against an unsuccessful party.

(b) No funds made available by the Corporation under this title, either by grant or contract, may be used—

(1) * * *

* * * * *

[(6) to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, as distinguished from the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the train-

ing of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients;]

(6) to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations including the dissemination of information about such policies or activities, except that this paragraph shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients;

* * * * *

[(8) to provide legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution;]

(8)(A) to provide legal assistance with respect to any proceeding or litigation relating to abortion unless such abortion is necessary to save the life of the mother, or (B) to support in whole or in part any legal assistance activity of any attorney in connection with any proceeding or litigation relating to abortion unless such abortion is necessary to save the life of the mother, except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities;

(9) to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system, except that nothing in this paragraph shall prohibit the provision of legal advice to eligible client with respect to such client's legal rights and responsibilities; [or]

(10) to provide legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act or of desertion from the Armed Forces of the United States, except that legal assistance may be provided to an eligible client in a civil action in which such client alleges that he was improperly classified prior to July 1, 1973, under the Military Selective Service Act or prior corresponding law[.];

(11) to provide legal assistance for or on behalf of any individual who is known to be an alien in the United States in violation of the Immigration and Nationality Act or any other law of the United States, or convention or treaty to which the United States is a party, relating to the immigration, exclusion, deportation, or expulsion of aliens; or

(12) to provide legal assistance for any litigation which seeks to adjudicate the legalization of homosexuality.

* * * * *

RECORDS AND REPORTS

SEC. 1008. (a) The Corporation is authorized to require such reports as it deems necessary from any grantee, contractor, or person or entity receiving financial assistance under this title regarding activities carried out pursuant to this title.

(b) The Corporation is authorized to prescribe the keeping of records with respect to funds provided by grant or contract and shall have access to such records at all reasonable times for the purpose of insuring compliance with the grant or contract or the terms and conditions upon which financial assistance was provided.

(c) The Corporation shall publish an annual report which shall be filed by the Corporation with the President and the Congress. Such report shall include a description of services provided pursuant to section 1007(a)(2)(C) (i) and (ii).

(d) Copies of all reports pertinent to the evaluation, inspection, or monitoring of any grantee, contractor, or person or entity receiving financial assistance under this title shall be submitted on a timely basis to such grantee, contractor, or person or entity, and shall be maintained in the principal office of the Corporation for a period of at least five years subsequent to such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Corporation may establish.

(e) The Corporation shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, and guidelines, and it shall publish in the Federal Register at least 30 days prior to their effective date all its rules, regulations, guidelines, and instructions.

(f) The Corporation shall require each recipient to maintain documentation (1) demonstrating the eligibility of each person to whom such recipient provides legal assistance, and (2) of any activity referred to in subparagraph (A) or (B) of section 1007(a)(5) of this title. The Corporation shall periodically review such documentation, in a manner that protects confidential client information, to assure compliance with this subsection and shall include in each annual report prepared pursuant to subsection (c) of this section its findings with respect to such compliance.

* * * * *

FINANCING

SEC. 1010. (a) There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation, \$90,000,000 for fiscal year 1975, \$100,000,000 for fiscal year 1976, and such sums as may be necessary for fiscal year 1977. These are authorized to be appropriated for the purpose of carrying out the activities of the Corporation \$205,000,000 for the fiscal year 1978, and such sums as may be necessary for each of the two succeeding fiscal years. There are authorized to be appropriated for purposes of carrying out the activities of the Corporation \$260,000,000 for the fiscal year 1982, and \$260,000,000 for the fiscal year 1983. The first appropriation may be made available to the Corporation at any time after six or more members of the Board have been appointed

and qualified. Appropriations for that purpose shall be made for not more than two fiscal years, and shall be paid to the Corporation in annual installments at the beginning of each fiscal year in such amounts as may be specified in Acts of Congress making appropriations.

* * * * *

[(d) Not more than 10 percent of the amounts appropriated pursuant to subsection (a) of this section for any fiscal year shall be available for grants or contracts under section 1006(a)(3) in any such year.]

(d) Not more than seven percent of the amounts appropriated pursuant to subsection (a) of this section for the fiscal year 1982 and any fiscal year thereafter shall be available in any such fiscal year for grants or contracts under section 1006(a)(3) of this title.

[SPECIAL LIMITATIONS

[SEC. 1011. The Corporation shall prescribe procedures to insure that—

[(1) financial assistance under this title shall not be suspended unless the grantee, contractor, or person or entity receiving financial assistance under this title has been given reasonable notice and opportunity to show cause why such action should not be taken; and

[(2) financial assistance under this title shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this title has been afforded reasonable notice and opportunity for a timely, full, and fair hearing, and, when requested, such hearing shall be conducted by an independent hearing examiner. Such hearing shall be held prior to any final decision by the Corporation to terminate financial assistance or suspend or deny funding. Hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation.]

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DISSENTING VIEWS BY F. JAMES SENSENBRENNER, JR.

I oppose H.R. 3480 because it fails to correct the shortcomings of the present authorizing legislation under which the Legal Services Corporation and its recipients operate. There is no provision to discourage the Legal Services Corporation from developing its agenda for political and socio-economic change through both the courts and its taxpayer-financed lobbying efforts on Congress and various state legislatures.

Past efforts to restrict the Corporation's activities have simply failed. Directives to restrict the activities of the LSC and its grant recipients in their brand of social activism have simply been ignored. There is no reason to believe the grant recipients will change their tune, just because a new Board of Directors has been appointed.

Supporters of H.R. 3480 will argue that the controversial activities which have characterized the LSC will be curtailed. However, a closer examination of its provisions shows crevices which LSC attorneys will widen into chasms. Business as usual will continue.

When this legislation was before the full Judiciary Committee, several amendments were offered which would have tightened up some of these loopholes by clarifying ambiguous provisions. These amendments failed and the loopholes still remain.

For example, in previous years, restrictions were adopted to prohibit LSC attorneys from becoming involved in abortion litigation. H.R. 3480, while attempting to further limit abortion rights litigation, still provides an exception which allows LSC attorneys to give legal advice "to an eligible client with respect to such client's rights and responsibilities." This provision does not preclude taking an abortion rights case under the guise of representation "concerning such client's legal rights and responsibilities." For example, legal counsel could be given to minor children who seek abortions without prior parental notification or consent. My amendment to close this loophole was defeated by a slim margin, and will be offered again on the House floor.

An example of LSC's unresponsiveness to Congressional intent was recently demonstrated in the grass roots lobbying campaign which the LSC and its grant recipients have found themselves engaged over the last year. Though Congress, over the past several years, has attempted to restrict the lobbying efforts of the LSC and its grant recipients by attaching restrictions on appropriations legislation, these restrictions have been totally ignored. On November 24, 1980, the GAO, in a letter to Congressman Ben Gilman, stated appropriated funds had been used illegally for lobbying activities. This opinion was ignored by Alan W. Houseman, the Director of LSC's Research Institute. In a December 29, 1980, memorandum to "State Coordinators and other interested parties", Houseman outlined an ambitious grass roots lobbying campaign designed to prevent the Reagan Administration and Congress from altering or changing the manner in which legal services to the indigent are

made. This memorandum also discussed a strategy to defeat Reagan's efforts to alter federal social programs. A coordinating strategy was also mentioned regarding Reagan's appointment of a new Board of Directors. In a May 1, 1981, 12-page opinion, the Acting Comptroller General, Milton W. Soclar, stated, "After reviewing this material (the Houseman memo and other documentation submitted by my office), we have concluded that LSC has itself engaged and allowed its grant recipients to engage in lobbying activities prohibited by federal law." Although a compromise amendment offered by me was adopted, the provisions in the bill are weak and will not stop these grass roots lobbying efforts.

In this GAO opinion, Soclar also stated, "... because we are not authorized to settle the accounts of the Corporation, we are unable to take exception to these illegal payments." I offered an amendment in Committee to give the Comptroller General the power to settle the accounts, and thus be able to enforce the anti-lobbying restrictions as applied to both the LSC and its grantees. This amendment was defeated with opponents arguing that LSC is an independent agency which should not be subject to the settlement authority of the GAO. In other words, the LSC can continue to expend appropriated funds illegally without being subject to GAO sanctions which would ensure compliance.

Another aspect of the Houseman memorandum concerns the suggestion that files be maintained on Members of Congress and their key staff persons. The memo stated such files should include background information on Members and staff, the names of political contributors, prior voting records, etc. In Committee, I offered an amendment to prohibit the compilation of information on the "voting record of any Member of Congress or any other data concerning the position of such Member on an issue, or to compile personal information on the staff of any Member of Congress." The Legal Services Corporation was created to help indigent persons, not to maintain files on the background or voting record of Congressmen or Congressional offices.

H.R. 3480 is also deficient in making the Corporation more responsive in the filing of class action suits against Government entities. In the past several years, legal aid lawyers have filed many controversial class action suits. The criticism in the filing of many of these cases has revolved around the issue of bad faith in both the filing of cases, failure to negotiate court settlements, etc. H.R. 3480 provides "No class action suit may be brought against the Federal Government or any State or local government except in accordance with policies or regulations adopted by the Board." This provision is inadequate because it allows the Board of Directors to delegate its authority to the President of the Corporation. This could allow the President to be both the approver and initiator of class action litigation. I offered an amendment in Committee to place all of the responsibility for the approval of class action suits against Government entities on the Board of Directors or a subcommittee thereof. The language in H.R. 3480 does not address the major objection that there should be more direct supervision by the National Board, and accountability for the activities of grantees by the National Board. The Board of the Corporation is supposed to manage the Corporation and set policy. A class action suit is a major policy decision that should be made by the Corporation.

a strategy to defeat Reams. A coordinating strategy's appointment of a new 2-page opinion, the Acting stated, "After reviewing other documentation submitted that LSC has itself engaged in lobbying activities through a compromise amendments in the bill are lobbying efforts.

1, "... because we are not Corporation, we are unable ents." I offered an amendment to General the power to enforce the anti-lobbying LSC and its grantees. This is arguing that LSC is an subject to the settlement the LSC can continue to without being subject to GAO e.

Memorandum concerns the suggestions of Congress and their files should include back-staff, the names of political In Committee, I offered an on of information on the press or any other data concerning an issue, or to compile per-Member of Congress." The d to help indigent persons, and or voting record of Con-

g the Corporation more re- ts against Government enti- id lawyers have filed many criticism in the filing of many e issue of bad faith in both court settlements, etc. H.R. may be brought against the cal government except in ac- adopted by the Board." This ws the Board of Directors to nt of the Corporation. This he approver and initiator of amendment in Committee to approval of class action suits ard of Directors or a subcom- 3480 does not address the ore direct supervision by the the activities of grantees by e Corporation is supposed to cy. A class action suit is a ade by the Corporation.

The "bad faith" argument also somewhat reflects on the attorneys who are filing the lawsuits. The ABA Code of Professional Responsibility Disciplinary Rule 7-102 prohibits the filing of lawsuits where a lawyer has knowledge that the claim is unwarranted, was filed for harassment, etc. In Committee, I offered an amendment to include D.R. 7-102 of the ABA Code of Professional Responsibility as a part of the grant contract governing use of LSC funds given to a recipient. A violation of the grant would be a contractual one which could be dealt with as such, instead of having to go through a lengthy disciplinary proceeding by a State bar where the offense occurred. This amendment was defeated. It will be offered again when the bill is before the full House of Representatives.

Another weakness in the present law, which is not adequately addressed by the bill, concerns the ability of the LSC to compel specific performance of its grant agreements. H.R. 3480 provides for the issuance of regulations by the LSC to govern enforcement of grant agreements. This is akin to the fox guarding the chicken coop. Also, too many times Congress has delegated its law-making authority to agencies. An amendment which I offered on behalf of Congressman Gilman would firmly establish the right of the LSC to compel "specific performance" of its grant agreements. This amendment would also allow the LSC, the U.S. Attorney General, or any State to sue a local grantee to compel compliance with the Legal Services Corporation Act and appropriate regulations. Congress has provided similar powers for suits by the Attorney General to enforce other quasi-public agencies such as Comsat, the Synfuels Corporation, and Amtrak. Also, according to the Congressional Research Service, Title II of the Hart-Scott-Rodino Antitrust Improvement Act permits State Attorney Generals to bring *parens patriae* actions for monetary damages resulting from violations of the Sherman Antitrust Act.

Another problem concerns presumptive funding for present LSC grant recipients. The present Act provides existing grantees with an automatic pipeline to the Federal Treasury when their present grants expire. H.R. 3480 eliminates this statutory presumption, but contains no transition provisions in case the LSC Board should decide to service a different geographical area. An amendment I offered would have provided, if adopted, appropriate transitional authorization. It would encourage the LSC Board to expeditiously handle applications either for refunds or for new grantees, by putting the acceptance of new cases on suspense until the Board acts on the application.

A final sore point in this legislation is the failure to adopt a provision prohibiting the representation of individuals unlawfully in the U.S. The LSC has ignored language in appropriations language prohibiting funds from being spent to represent illegal aliens. An amendment I offered would have prohibited LSC money from being spent to represent an individual "(A) who is not a U.S. citizen, is not an alien admitted for permanent residence, or is not otherwise present in the U.S. under color of law, or (B) in any proceeding or judicial action relating to the exclusion or deportation of that individual from the U.S." Thus, my amendment would allow the free representation of individuals legally in the U.S. while also prohibiting representation of illegal aliens in any kind of deportation proceedings.

Even if these and other corrective amendments are adopted, I am not convinced that business as usual will change. Most of the present grant recipients will, for quite some time, continue to receive grants from the LSC. The presumptive funding provisions in the present law have "frozen out" competing grantees for such a long time that it takes a while for alternate delivery systems (such as Judicare) or other prospective grantees to file applications. The present grantees will thus continue to offer their brand of legal assistance, no matter what the dictates of Congress or a new LSC Board. The illegal lobbying activities, and the continuation of abortion representation, illegal alien representation, and other social activist representation which Congress has tried to curtail will be continued in one form or another.

It should be emphasized that the abolition of the Legal Services Corporation is not synonymous with denying legal help to the poor. Federal funds to provide free legal services to the poor would still be available through block grants of Federal aid given to each State. Also, the 575,000 members of the legal profession should continue to provide donated services to the needy, as their code of ethics requires. Lastly, the poor can still obtain legal services from other public and private sources, as in the past.

The Legal Services Corporation is a prime example of a Federal program that has run amok because of lack of control and local direction to accommodate local needs. It is time to reintroduce the local control of Government programs such as the LSC, which last year's program mandated.

F. JAMES SENSENBRENNER, Jr.
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DISSENTING VIEWS BY CONGRESSMAN SAM B. HALL, JR.

My good friend and colleague Representative James Sensenbrenner presents in his dissenting views, which I co-signed, very telling arguments for opposing H.R. 3480, providing for the reauthorization of the Legal Services Corporation (LSC). The evidentiary record of LSC abuses is clear and cannot be denied, and I commend the gentleman for bringing that record to light. LSC attorneys are going far afield of what was originally intended. They regard their very presence as an opportunity to put in motion their own notions of social order and the sooner an educated public opinion becomes aware of this fact the better.

To Jim Sensenbrenner's record of abuses in the program, I add the following cases excerpted from a list of representative LSC cases which appeared in an OMB working paper on the program:

- Litigation to compel payment of SSI benefits to alcoholics;

- Litigation to compel the New York City Transit Authority to hire former heroin addicts;

- Successful Federal district court suit to compel New York to pay State welfare benefits to illegal alien parent;

- Successful Louisiana class action compelling Department of Corrections to pay inmate compensation to inmates of a state prison that has no income-producing programs;

- Suit against California grower who issued short-handled hoes to workers who could not stand while using them; grower contended that, if workers use long-handled hoes, supervisors cannot tell who is resting;

- Federal district court suit challenging practice of Oregon school district of searching students without warrants or probable cause; and

- An attorney for Hartford Neighborhood Legal Services last year sought \$7,000 to \$10,000 from Connecticut to mandate payment for a welfare recipient's sex change operation.

LSC's case history is clearly one of using taxpayer dollars to force judicial resolution of political and public policy issues best left to Congress for deliberation. Poor people with ordinary legal problems are too often ignored as LSC lawyers go after benchmark cases on issues to bring about social change and reputation building. LSC has evolved into an employment program for lawyers engaged in the pursuit of a host of politically inspired activities. Just as taxpayers should not be asked to subsidize the ACLU, Common Cause, the U.S. Chamber of Commerce, or other such legitimate special interest groups, neither should they be asked to subsidize the operations of LSC lawyers who use the poor as pawns for their own personal efforts at lobbying and social engineering.

Under the guise of helping indigents, almost any kind of social "reform" activity has been justified. The near endless list of abuses in the program continues to grow. As I see it, LSC efforts at social engineering represent undue centralization in its most destructive

and least responsible form. It, indeed, frustrates intelligent attempts to deal with a social problem.

The record of the Corporation justifies its elimination. I endorse fully President Reagan's proposal to zero-fund the Legal Services Corporation and to put funds for State-run legal services into a social and community services block grant. It is my genuine belief that there must be a closer working relationship with the State and local bar associations before *any* plan works successfully. This you will get by removing the program from Washington to the individual States. State experimentation can ultimately bring forth the best legal services policy to be employed for the benefit of the poor.

I oppose H.R. 3480, Legal Services Corporation Re-authorization.

SAM B. HALL, Jr.

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