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**Union Calendar No. 29**

94<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R. 4005**

[Report No. 94-58]

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 1975

Mr. ROGERS (for himself, Mr. SATTERFIELD, Mr. PREYER, Mr. SYMINGTON, Mr. SCHEUER, Mr. WAXMAN, Mr. HEFNER, Mr. FLORIO, Mr. CARNEY, Mr. WIRTH, Mr. CARTER, Mr. BROYHILL, Mr. HASTINGS, and Mr. HEINZ) introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

MARCH 13, 1975

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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**A BILL**

To amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the programs authorized by that Act.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SHORT TITLE**

4 **SECTION 1.** This Act may be cited as the "Develop-  
5 mental Disabilities Amendments of 1975".

6 **EXTENSION OF EXISTING AUTHORITIES THROUGH FISCAL**

7 **YEAR 1975**

8 **SEC. 2.** (a) Sections 122 (b) and 131 of the Develop-

1 mental Disabilities Services and Facilities Construction Act  
2 (hereinafter in this Act referred to as the "Act") are each  
3 amended by striking out "for the fiscal year ending June 30,  
4 1974" and inserting in lieu thereof "each for the fiscal years  
5 ending June 30, 1974, and June 30, 1975".

6 (b) Section 137 (b) (1) of the Act is amended by  
7 striking out "and June 30, 1974" and inserting in lieu there-  
8 of ", June 30, 1974, and June 30, 1975".

9 EXTENSION OF DEMONSTRATION AND TRAINING GRANTS

10 SEC. 3. (a) Section 122 (b) of the Act (as amended by  
11 section 2) is amended by striking out "and" after "1973;"  
12 and by inserting after "1975" the following: "; \$12,000,-  
13 000 for fiscal year 1976; and \$15,000,000 for fiscal year  
14 1977".

15 (b) Section 124 of the Act is amended to read as  
16 follows:

17 "PAYMENTS

18 "SEC. 124. Payments of grants under section 122 shall  
19 be made in advance or by way of reimbursement, and on  
20 such conditions, as the Secretary may determine."

21 SPECIAL PROJECT GRANTS

22 SEC. 4. Section 130 of the Act is amended to read as  
23 follows:

24 "SPECIAL PROJECT GRANTS

25 "SEC. 130. (a) The Secretary may make grants to  
26 public or nonprofit private entities for—

1 "(1) demonstration projects for the provision of  
2 services to persons with developmental disabilities who  
3 are also disadvantaged because of their economic status  
4 or the location of their residences,

5 "(2) technical assistance relating to services and  
6 facilities for persons with developmental disabilities,  
7 including assistance in State and local planning or  
8 administration respecting such services and facilities,

9 "(3) training of specialized personnel needed for  
10 the provision of services for persons with developmental  
11 disabilities or for research directly related to such  
12 training,

13 "(4) developing or demonstrating new or improved  
14 techniques for the provision of services to persons with  
15 developmental disabilities,

16 "(5) gathering and disseminating information re-  
17 lating to developmental disabilities,

18 "(6) coordinating, integrating, and using all avail-  
19 able community resources for services to persons with  
20 developmental disabilities, and

21 "(7) improving the administration of, and the  
22 quality of services provided in, programs for such  
23 persons.

24 "(b) No grant may be made under subsection (a) unless  
25 an application therefor has been submitted to, and approved  
26 by, the Secretary. Such application shall be in such form,

1 submitted in such manner, and contain such information, as  
 2 the Secretary shall by regulation prescribe. The Secretary  
 3 may not approve such an application unless the State in  
 4 which the applicant's project will be conducted has a State  
 5 plan approved under section 134.

6 “(c) The amount of any grant under subsection (a)  
 7 shall be determined by the Secretary; and payments under  
 8 such grants may be made in advance or by way of reimburse-  
 9 ment, and at such intervals and on such conditions, as the  
 10 Secretary finds necessary. In determining the amount of any  
 11 grant under subsection (a) for the costs of any project  
 12 there shall be excluded from such costs an amount equal to  
 13 the sum of (1) the amount of any other Federal grant  
 14 which the applicant has obtained, or is assured of obtaining,  
 15 with respect to such project, and (2) the amount of any  
 16 non-Federal funds required to be expended as a condition  
 17 of such other Federal grant.

18 “(d) For the purpose of making payments under  
 19 grants under subsection (a), there are authorized to be  
 20 appropriated \$15,000,000 for fiscal year 1976 and \$15,-  
 21 000,000 for fiscal year 1977. Of the funds appropriated  
 22 under this subsection for any such fiscal year, not less than 30  
 23 per centum of such funds shall be used for projects of na-  
 24 tional significance, as determined by the Secretary.

25 “(e) No funds appropriated under the Public Health

1 Service Act or under this Act (other than under subsection  
 2 (d) of this section) may be used to make grants under  
 3 subsection (a).”

#### 4 STATE ALLOTMENTS

5 SEC. 5. (a) Section 131 of the Act is amended to read  
 6 as follows:

7 “AUTHORIZATION OF APPROPRIATIONS FOR ALLOTMENTS

8 “SEC. 131. For allotments under section 132, there  
 9 are authorized to be appropriated \$40,000,000 for fiscal year  
 10 1976 and \$50,000,000 for fiscal year 1977.”

11 (b) Subsection (a) of section 132 of the Act is amended  
 12 to read as follows:

13 “(a) (1) (A) In each fiscal year, the Secretary shall,  
 14 in accordance with regulations and subparagraph (B) of  
 15 this paragraph, allot the sums appropriated for such year  
 16 under section 131 among the States on the basis of—

17 “(i) the population,

18 “(ii) the extent of need for services and facilities  
 19 for persons with developmental disabilities, and

20 “(iii) the financial need,

21 of the respective States. Sums allotted to the States under  
 22 this section shall be used in accordance with approved State  
 23 plans under section 134 for the provision under such plans  
 24 of services and facilities for persons with developmental dis-  
 25 abilities.

1     “(B) The allotment of the Virgin Islands, American  
2 Samoa, Guam, and the Trust Territory of the Pacific Islands  
3 under subparagraph (A) of this paragraph in any fiscal year  
4 shall not be less than \$50,000. The allotment of each other  
5 State in any fiscal year shall not be less than \$100,000.

6     “(2) In determining, for purposes of paragraph (1)  
7 (A) (ii), the extent of need in any State for services and  
8 facilities for persons with developmental disabilities, the  
9 Secretary shall take into account the scope and extent of  
10 the services specified, pursuant to section 134 (b) (5), in  
11 the State plan of such State approved under section 134.

12     “(3) Sums allotted to a State in a fiscal year and des-  
13 igned by it for construction and remaining unobligated at  
14 the end of such year shall remain available to such State  
15 for such purpose in the next fiscal year (and in such year  
16 only), in addition to the sums allotted to such State in  
17 such next fiscal year; except that if the maximum amount  
18 which may be specified for construction (pursuant to sec-  
19 tion 134 (b) (15) ) for a year plus any part of the amount so  
20 specified pursuant to such section for the preceding fiscal year  
21 and remaining unobligated at the end of such fiscal year is  
22 not sufficient to pay the Federal share of the cost of construc-  
23 tion of a specific facility included in the construction program  
24 of the State developed pursuant to section 134 (b) (13), the

1 amount specified pursuant to section 134 (b) (15) for such  
2 preceding year shall remain available for a second additional  
3 year for the purpose of paying the Federal share of the cost  
4 of construction of such facility.

5     “(4) Of the amount allotted to any State under para-  
6 graph (1) for fiscal year 1976, not less than 10 per centum  
7 of that allotment shall be used by such State, in accordance  
8 with the plan submitted pursuant to section 134 (b) (20),  
9 for the purpose of assisting it in developing and implement-  
10 ing plans designed to eliminate inappropriate placement in  
11 institutions of persons with developmental disabilities; and of  
12 the amount allotted to any State under paragraph (1) for  
13 each succeeding fiscal year, not less than 30 per centum of  
14 that allotment shall be used by such State for such purpose.”

15     (c) Section 132 (e) of the Act is repealed.

16     (d) (1) Subsection (b) of section 132 of the Act is  
17 amended by striking out “this part” each place it occurs  
18 and inserting in lieu thereof “the State plan”.

19     (2) Section 134 (b) (4) of the Act is amended by  
20 striking out “under this part” and inserting in lieu thereof  
21 “under section 132”.

22     (3) Section 138 of the Act is amended by striking out  
23 “under this part” each place it occurs and inserting in lieu  
24 thereof “under section 132”.

## CONSTRUCTION PROJECTS

1           SEC. 6. (a) Sections 135 and 136 of the Act are re-  
2  
3 pealed.

4           (b) Section 134 (b) of the Act is amended by striking  
5 out "and" after the semicolon at the end of paragraph (17),  
6 by redesignating paragraph (18) as paragraph (21), and  
7 by inserting the following new paragraphs after paragraph  
8 (17):

9           “(18) provide reasonable assurance that adequate  
10 financial support will be available to complete the con-  
11 struction of, and to maintain and operate when such con-  
12 struction is completed, any facility, the construction of  
13 which is assisted with sums allotted under section 132;

14           “(19) provide reasonable assurance that all labor-  
15 ers and mechanics employed by contractors or subcon-  
16 tractors in the performance of work on any construction  
17 project assisted with sums allotted under section 132 will  
18 be paid at rates not less than those prevailing on similar  
19 construction in the locality as determined by the Sec-  
20 retary of Labor in accordance with the Act of March 3,  
21 1931 (40 U.S.C. 276a—276a-5, known as the Davis-  
22 Bacon Act); and the Secretary of Labor shall have with  
23 respect to the labor standards specified in this para-  
24 graph the authority and functions set forth in Reorgani-  
25 zation Plan Numbered 14 of 1950 (15 F.R. 3176; 5

1           U.S.C. Appendix) and section 2 of the Act of June 13,  
2 1934 (40 U.S.C. 276c);

3           “(20) contain a plan designed to eliminate inap-  
4 propriate placement in institutions of persons with de-  
5 velopmental disabilities, and to improve the quality of  
6 care and the state of surroundings of persons for whom  
7 institutional care is appropriate; and”.

8           (c) The headings of sections 137 and 138 of the Act  
9 are each amended by inserting “CONSTRUCTION,” after  
10 “PLANNING,”.

11           (d) (1) Section 137 of the Act is amended (A) by  
12 striking out in subsection (a) (1) “, other than expenditures  
13 for construction,”; and (B) by amending subsection (b)  
14 to read as follows:

15           “(b) For purposes of subsection (a), the Federal share  
16 with respect to any State for fiscal year 1976 and for the  
17 next fiscal year shall be 75 per centum of the expenditures  
18 incurred by the State during such year under its State  
19 plan approved under section 134.”

20           (2) Section 401 (h) of the Mental Retardation Facili-  
21 ties and Community Mental Health Centers Construction  
22 Act of 1963 is amended—

23           (A) by striking out “part C of title I or” in para-  
24 graph (1);

1 (B) by striking out “(A) for any project under  
2 part C of title I may not exceed 66 $\frac{2}{3}$  per centum of the  
3 costs of construction of such project; and (B)” in  
4 paragraph (2); and

5 (C) by striking out “part C of title I or under”  
6 in paragraph (3).

7 (e) Section 140 of the Act is amended to read as  
8 follows:

9 “NONDUPLICATION

10 “SEC. 140. In determining the amount of any State’s  
11 Federal share of the expenditures incurred by it under a  
12 State plan approved under section 134, there shall be dis-  
13 regarded (1) any portion of such expenditures which are  
14 financed by Federal funds provided under any provision of  
15 law other than section 132, and (2) the amount of any non-  
16 Federal funds required to be expended as a condition of re-  
17 ceipt of such Federal funds.”

18 GENERAL PROVISIONS AND CONFORMING AMENDMENTS

19 SEC. 7. (a) Section 134 of the Act is amended by  
20 adding at the end the following new subsection:

21 “(d) For purposes of any determination by the Secre-  
22 tary for purposes of subsection (b) (11) as to whether any  
23 urban or rural area is a poverty area, the Secretary may not  
24 determine that an area is an urban or rural poverty area  
25 unless—

1 “(1) such area contains one or more subareas which  
2 are characterized as subareas of poverty;

3 “(2) the population of such subarea or subareas  
4 constitutes a substantial portion of the population of  
5 such rural or urban area; and

6 “(3) the project, facility, or activity, in connection  
7 with which such determination is made, does, or (when  
8 completed or put into operation) will, serve the needs  
9 of the residents of such subarea or subareas.”

10 (b) Part C of the Act is amended by adding after sec-  
11 tion 140 the following new section:

12 “RECOVERY

13 “SEC. 141. If any facility with respect to which funds  
14 have been paid under section 132 shall, at any time within  
15 twenty years after the completion of construction—

16 “(1) be sold or transferred to any person, agency,  
17 or organization (A) which is not a public or nonprofit  
18 private entity, or (B) which is not approved as a trans-  
19 feree by the State agency designated pursuant to section  
20 134 or its successor; or

21 “(2) cease to be a public or other nonprofit facility  
22 for the mentally retarded or persons with other develop-  
23 mental disabilities, unless the Secretary determines, in  
24 accordance with regulations, that there is good cause for  
25 releasing the applicant or other owner from the obliga-

1 tion to continue such facility as a public or other non-  
 2 profit facility for the mentally retarded or persons with  
 3 other developmental disabilities,  
 4 the United States shall be entitled to recover from either the  
 5 transferor or the transferee (or, in the case of a facility  
 6 which has ceased to be a public or other nonprofit facility  
 7 for the mentally retarded or persons with other develop-  
 8 mental disabilities, from the owners thereof) an amount  
 9 bearing the same ratio to the then value (as determined by  
 10 the agreement of the parties or by action brought in the  
 11 district court of the United States for the district in which  
 12 the facility is situated) of so much of such facility as con-  
 13 stituted an approved project or projects, as the amount of  
 14 the Federal participation bore to the cost of the construction  
 15 of such project or projects. Such right of recovery shall not  
 16 constitute a lien upon such facility prior to judgment.”

17 (c) (1) Part A of the Act is amended to read as follows:

18 “PART A—GENERAL PROVISIONS

19 “DEFINITIONS

20 “SEC. 101. For purposes of this title:

21 “(1) The term ‘State’ includes Puerto Rico, Guam,  
 22 American Samoa, the Virgin Islands, the Trust Territory of  
 23 the Pacific Islands, and the District of Columbia.

24 “(2) The term ‘facility for persons with developmental  
 25 disabilities’ means a facility, or a specified portion of a facil-

1 ity, designed primarily for the delivery of one or more serv-  
 2 ices to persons with one or more developmental disabilities.

3 “(3) The terms ‘nonprofit facility for persons with de-  
 4 velopmental disabilities’ and ‘nonprofit private institution of  
 5 higher learning’ mean, respectively, a facility for persons  
 6 with developmental disabilities and an institution of higher  
 7 learning which are owned and operated by one or more non-  
 8 profit corporations or associations no part of the net earnings  
 9 of which inures, or may lawfully inure, to the benefit of any  
 10 private shareholder or individual; and the term ‘nonprofit  
 11 private agency or organization’ means an agency or orga-  
 12 nization which is such a corporation or association or which  
 13 is owned and operated by one or more of such corporations  
 14 or associations.

15 “(4) The term ‘construction’ includes construction of  
 16 new buildings, acquisition, expansion, remodeling, and alter-  
 17 ation of existing buildings, and initial equipment of any such  
 18 buildings (including medical transportation facilities); in-  
 19 cluding architect’s fees, but excluding the cost of offsite im-  
 20 provements and the cost of the acquisition of land.

21 “(5) The term ‘cost of construction’ means the amount  
 22 found by the Secretary to be necessary for the construction of  
 23 a project.

24 “(6) The term ‘title’, when used with reference to a  
 25 site for a project, means a fee simple, or such other estate or



1 interest (including a leasehold on which the rental does not  
2 exceed 4 per centum of the value of the land) as the  
3 Secretary finds sufficient to assure for a period of not less  
4 than fifty years undisturbed use and possession for the pur-  
5 poses of construction and operation of the project.

6 “(7) The term ‘developmental disability’ means a dis-  
7 ability attributable to mental retardation, cerebral palsy,  
8 epilepsy, autism, dyslexia, or a neurological condition of an  
9 individual found by the Secretary to be closely related to  
10 mental retardation or to require treatment similar to that  
11 required for mentally retarded individuals, which disability  
12 originates before such individual attains age eighteen, which  
13 has continued or can be expected to continue indefinitely, and  
14 which constitutes a substantial handicap to such individual.

15 “(8) The term ‘services for persons with developmental  
16 disabilities’ means specialized services or special adaptations  
17 of generic services directed toward the alleviation of a devel-  
18 opmental disability or toward the social, personal, physical,  
19 or economic habilitation or rehabilitation of an individual  
20 with such a disability; and such term includes diagnosis,  
21 evaluation, treatment, personal care, day care, domiciliary  
22 care, special living arrangements, training, education, shel-  
23 tered employment, recreation, counseling of the individual  
24 with such disability and of his family, protective and other  
25 social and socio-legal services, information and referral serv-

1 ices, follow-along services, and transportation services nec-  
2 essary to assure delivery of services to persons with develop-  
3 mental disabilities.

4 “STATE CONTROL OF OPERATIONS

5 “SEC. 102. Except as otherwise specifically provided,  
6 nothing in this title shall be construed as conferring on any  
7 Federal officer or employee the right to exercise any super-  
8 vision or control over the administration, personnel, main-  
9 tence, or operation of any facility for persons with  
10 developmental disabilities with respect to which any funds  
11 have been or may be expended under this title.

12 “RECORDS AND AUDIT

13 “SEC. 103. (a) Each recipient of assistance under this  
14 title shall keep such records as the Secretary shall prescribe,  
15 including (1) records which fully disclose (A) the amount  
16 and disposition by such recipient of the proceeds of such  
17 assistance, (B) the total cost of the project or undertaking  
18 in connection with which such assistance is given or used,  
19 and (C) the amount of that portion of the cost of the project  
20 or undertaking supplied by other sources, and (2) such other  
21 records as will facilitate an effective audit.

22 “(b) The Secretary and the Comptroller General of the  
23 United States, or any of their duly authorized representa-  
24 tives, shall have access for the purpose of audit and exami-  
25 nation to any books, documents, papers, and records of the

1 recipients of assistance under this title that are pertinent  
2 to such assistance.

3 "SHORT TITLE

4 "SEC. 104. This title may be cited as the Developmental  
5 Disabilities Services and Facilities Construction Act."

6 (2) Section 100 and part D of the Act and para-  
7 graphs (b), (l), and (m) of section 401 of the Mental  
8 Retardation Facilities and Community Mental Health Centers  
9 Construction Act of 1963 are repealed.

10 (d) Sections 137, 138, 139, 140, and 141 of part C  
11 of the Act are redesignated as sections 135, 136, 137, 138,  
12 and 139, respectively.

13 EFFECTIVE DATE

14 SEC. 8. The amendments made by sections 3, 4, 5, 6,  
15 and 7 shall take effect with respect to appropriations under  
16 the Act for fiscal years beginning after June 30, 1975.

17 REPORT AND STUDY

18 SEC. 9. (a) The Secretary of Health, Education, and  
19 Welfare (hereinafter in this section referred to as the "Sec-  
20 retary") shall, in accordance with section 101(7) of the  
21 Act (defining the term "developmental disability") (as  
22 amended by section 7 of this Act), determine the neurolog-  
23 ical conditions of individuals which should be included as  
24 developmental disabilities for purposes of the programs au-  
25 thorized by parts B and C of the Act. Within six months of

1 the date of enactment of this Act the Secretary shall make  
2 such determination and shall make a report thereon to the  
3 Congress specifying the neurological conditions which he  
4 determined should be so included, the neurological conditions  
5 which he determined should not be so included, and the  
6 reasons for each such determination. After making such  
7 report, the Secretary shall periodically, but not less often than  
8 annually, review the neurological conditions not so included  
9 as developmental disabilities to determine if they should be  
10 so included. The Secretary shall report to the Congress the  
11 results of each such review.

12 (b) (1) The Secretary shall contract for the conduct of  
13 an independent objective study to determine (A) if the basis  
14 of the definition of the developmental disabilities (as amended  
15 by section 7 of this Act) with respect to which assistance is  
16 authorized under such parts B and C of the Act is appropriate  
17 and, to the extent that it is not, to determine an appropriate  
18 basis for determining which disabilities should be included  
19 and which disabilities should be excluded from the definition,  
20 and (B) the nature and adequacy of services provided under  
21 other Federal programs for persons with disabilities not  
22 included in such definition.

23 (2) A final report giving the results of the study re-  
24 quired by paragraph (1) and providing specifications for  
25 the definition of developmental disabilities for purposes of

1 parts B and C of the Act shall be submitted by the organiza-  
2 tion conducting the study to the Committee on Interstate and  
3 Foreign Commerce of the House of Representatives and the  
4 Committee on Labor and Public Welfare of the Senate not  
5 later than eighteen months after the date of enactment of  
6 the first Act making an appropriation for such study.

Union Calendar No. 29

94TH CONGRESS  
1ST SESSION

# H. R. 4005

[Report No. 94-58]

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## A BILL

To amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the programs authorized by that Act.

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By Mr. ROGERS, Mr. SATTERFIELD, Mr. PREYER,  
Mr. SYMINGTON, Mr. SCHEUER, Mr. WAX-  
MAN, Mr. HEFNER, Mr. FLORIO, Mr. CARNEY,  
Mr. WIRTH, Mr. CARTER, Mr. BROYHILL, Mr.  
HASTINGS, and Mr. HEINZ

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FEBRUARY 27, 1975

Referred to the Committee on Interstate and Foreign  
Commerce

MARCH 13, 1975

Committed to the Committee of the Whole House on  
the State of the Union and ordered to be printed