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REHABILITATION ACT AMENDMENTS OF 1974

MAY 17, 1974.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. PERKINS, from the Committee on Education and Labor,
submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany H.R. 14225]



The Committee on Education and Labor, to whom was referred the bill (H.R. 14225) to amend and extend the Rehabilitation Act of 1973 for one additional year, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

On page 4, after line 25, insert the following:

EXTENSION OF DATE FOR REPORT ON SPECIAL STUDY OF COMPREHENSIVE SERVICE NEEDS

SEC. 12. Section 130(b) of such Act is amended by striking out "February 1, 1975" and inserting in lieu thereof "June 30, 1975".

PURPOSE

The purpose of H.R. 14225, as amended, is to provide timely authorizations for programs carried on under the Rehabilitation Act. The Act is presently authorized through Fiscal Year 1975.

H.R. 14225 proposes to extend the authority for programs carried on under the Act for one additional year—that is through Fiscal Year 1976.

Further, H.R. 14225 would establish the present Rehabilitation Services Administration within the Office of the Secretary of Health, Education and Welfare. The Rehabilitation Services Administration

is presently located within the Social and Rehabilitation Service of the Department of Health, Education and Welfare.

The authorization levels proposed in H.R. 14225 for Fiscal Year 1976 are as follows:

(Dollar amounts in millions)

H.R. 14225	Rehabilitation Act of 1973	Program	Existing law (fiscal year 1975 authorizations)	Proposed by H.R. 14225 (fiscal year 1976)
Sec. 3(a)(1)	Sec. 100(b)(1)	Grants to the States	\$680.0	\$720.0
Sec. 3(a)(2)	Sec. 100(b)(2)	Grants to the States for innovation and expansion.	39.0	40.0
Sec. 4(a)	Sec. 201(a)(1)	Research	25.0	30.0
Sec. 4(b)	Sec. 201(a)(2)	Training	27.7	30.0
Sec. 5(1)	Sec. 301(a)	Facilities, staffing and planning	(1)	(1)
Sec. 6	Sec. 302(a)	Training of handicapped individuals	(1)	(1)
Sec. 7	Sec. 304(a)(1)	Special projects and demonstration	17.0	20.0
Sec. 8	Sec. 305(a)	National Center for Deaf-Blind Youths and Adults	(1)	(1)
Sec. 9	Sec. 403	Program and project evaluation	(1)	(1)
Sec. 10	Sec. 405(d)	Secretarial responsibilities	.5	.5
Sec. 11	Sec. 502(h)	Architectural and Transportation Barriers Compliance Board	1.0	1.0

¹ Such sums.

BACKGROUND

The State-Federal program of vocational rehabilitation has represented, through the years, a true partnership in serving and rehabilitating handicapped individuals. In Fiscal Year 1973, state vocational rehabilitation agencies served approximately 1,176,445 handicapped individuals and rehabilitated 360,726 persons.

The number of persons rehabilitated during Fiscal Year 1973 was the highest achieved in the history of the State-Federal program of vocational rehabilitation. The number of people served in Fiscal Year 1973 represents a 6% increase over Fiscal Year 1972. Even more impressive is the fact that the number of persons rehabilitated in Fiscal Year 1973 represents an increase of 11% in the number of persons rehabilitated in Fiscal Year 1972.

Since the inception of the State-Federal program of vocational rehabilitation in 1920, over 3,000,000 handicapped people have been rehabilitated.

The achievements of these vocational rehabilitation efforts clearly indicate the value of making a greater Federal investment. Several cost-benefit analyses of the rehabilitation program have been completed. Although these analyses differ with respect to methods and assumptions, they all agree on one crucial fact—the benefits of the rehabilitation program are many times its cost. Conservative estimates of the ratio of benefits to costs have ranged between 8 to 1 and 35 to 1. For instance, the total annual earnings of 826,138 individuals rehabilitated in Fiscal Year 1972 are estimated at \$1 billion—or a net increase of \$750,000 over the earnings of the individuals at the time they entered the rehabilitation system.

In addition to this contribution to the GNP, the Rehabilitation Services Administration estimates that these individuals, as a minimum, will be contributing approximately 5% of their total income—or \$58 million—to Federal, State and local governments for taxes. This

contribution is in addition to the estimate savings to the government through either the removal of clients from the public assistance roles or by reducing the dependency of clients. The taxes paid by those rehabilitated, together with savings from welfare payments, represent the initial annual benefits to be derived from the programs.

NEED FOR THE LEGISLATION

Much of the successful development of the vocational rehabilitation program has been the result of the effective use states have been able to make of advance information on state allotment figures for the basic rehabilitation program. State allotments for the basic program are computed on the basis of the authorization for the basic program provided in the Rehabilitation Act. With the advanced state allotment information, which for the most part has been available in the past, states have been able to plan effectively for the orderly growth of their programs and to estimate and appropriate sufficient state funds to match available Federal support.

With this factor in mind, representatives from many states have advised the Committee of the importance of extending, as soon as possible, the basic authorization for Federal support of state and Federal programs of vocational rehabilitation services through Fiscal Year 1976.

Unless Congress acts now to extend the authorization, states will be unable to determine how much Federal money they can anticipate in Fiscal Year 1976 for their programs of vocational rehabilitation—and thus they will be unable to plan their State expenditures accordingly. Because the authorization for the basic state programs constitutes a commitment of federal funds to which each state is entitled if sufficient state funds are appropriated to match the state allotment, it is imperative that states have available sufficient matching funds. Enactment of H.R. 14225 providing for a one-year extension of vocational rehabilitation programs, will facilitate orderly and timely administration of programs at state and local levels. At the Federal level, enactment of H.R. 14225 will mean that there will be no delays in the appropriations process because of a failure to have a timely authorization.

The Committee plans to conduct extensive hearings on the implementation of the Rehabilitation Act and in the near future will consider a longer extension of the vocational rehabilitation programs. However, several important studies have been authorized by the new Act and these are still in progress. Therefore, the Committee recommends a one-year extension so that the results of these studies, when they are completed, can be given adequate attention and consideration along with the operation and implementation of the new Act.

REHABILITATION SERVICES ADMINISTRATION

In addition to extending the Rehabilitation Act for an additional year, H.R. 14225, as amended, requires that the Rehabilitation Services Administration—the agency which presently administers programs authorized by the Rehabilitation Act—be moved from the

Social and Rehabilitation Service of the Department of Health, Education and Welfare to the Office of the Secretary of Health, Education and Welfare.

During oversight hearings conducted on August 3, November 30 and December 10, 1973, and March 8, 1974, the Committee found evidence that the direction and administration of the Social and Rehabilitation Service was not compatible with rehabilitation programs administered by the Rehabilitation Services Administration. Based on this evidence it is clear that the Social and Rehabilitation Service, which is principally concerned with welfare programs, is not a suitable location for administration of a rehabilitation program which, in line with Congressional intent, focuses on developing vocational potential.

Indeed, the Committee stresses that the sponsors of the Smith-Fess Act of the 66th Congress—which initiated the rehabilitation programs—viewed their creation as a human development program, not as a welfare program.

The rehabilitation program is designed to assist disabled individuals develop new talents so that they can again participate in society to their fullest capabilities. As such, it is inappropriate that the program be located in SRS with programs having much different goals and objectives. Accordingly, H.R. 14225 proposes the transfer of the Rehabilitation Services Administration from the Social and Rehabilitation Service to the Office of the Secretary of Health, Education and Welfare.

ESTIMATE OF COSTS

In accordance with clause 7 of rule 13, the Committee estimates the costs which would be incurred in carrying out H.R. 14225 as follows:

<i>Rehabilitation Act</i>	<i>Fiscal Year 1976</i>
Title I: Basic State program	\$720,000,000
Innovation and expansion	40,000,000
Title II: Research	30,000,000
Training	30,000,000
Title III: Facilities, staffing, and planning	(¹)
Training for handicapped individuals	(¹)
Special projects and demonstration	20,000,000
National Center for Deaf-Blind Youths and Adults	(¹)
Title IV: Program and project evaluation	(¹)
Secretarial responsibilities (Office of the Handicapped)	500,000
Title V: Architectural and Transportation Barriers Compliance Board	1,000,000
	841,500,000

¹ Such sums.

COMMITTEE ACTION

The Select Subcommittee on Education conducted oversight hearings on the Rehabilitation Act on August 3, November 30 and December 10, 1973, and on March 8, 1974. Based on these hearings and on views expressed to the Committee from persons in the rehabilitation program, Mr. Brademas, Chairman of the Select Education Subcommittee; Mr. Perkins, Chairman of the Committee on Education and Labor; Mr. Quie, the Ranking Minority Member of the Committee on Education and Labor; and Mr. Eshleman, the Ranking Minority

Member of the Select Education Subcommittee introduced H.R. 14225 on April 11, 1974.

On May 14, 1974, the Education and Labor Committee by voice vote ordered H.R. 14225 reported, as amended.

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

The title of the Act is "The Rehabilitation Act Amendments of 1974".

SECTION 2. REHABILITATION SERVICES ADMINISTRATION

Section 3(a-b) is amended in order to place the Rehabilitation Services Administration within the Office of the Secretary of the Department of Health, Education, and Welfare. The Commissioner is to be directly responsible to the Office of the Secretary.

The present law provides only that the Rehabilitation Services Administration be established within the Department of Health, Education, and Welfare.

SECTION 3. EXTENSION OF VOCATIONAL REHABILITATION SERVICES

Subsection (a) (1) extends for one additional year—that is, through Fiscal Year 1976, authority for the Secretary to make grants to states to assist in the rehabilitation of handicapped individuals, and establishes an authorization of \$720 million.

Subsection (a) (2) extends for one year the program of grants to states to assist in meeting the cost of projects for innovation and expansion of vocational rehabilitation services, and establishes an authorization of \$40 million.

Subsection (b) extends for one year the authority to carry out pilot projects dealing with client assistance.

Subsection (c) provides that sums appropriated for project grants for innovation and expansion shall remain available through the fiscal year ending June 30, 1977.

SECTION 4. EXTENSION OF RESEARCH AND TRAINING ASSISTANCE

Subsection (a) (1) extends the authority for research activities for one additional year with an authorization of \$30 million.

Subsection (a) (2) provides that 25% of the sums appropriated for research shall be used to establish and support rehabilitation engineering research centers.

Subsection (b) extends for one year the program of training individuals needed to carry out the program of rehabilitation and authorizes \$30 million for this purpose.

SECTION 5. EXTENSION OF ASSISTANCE FOR REHABILITATION FACILITIES

Subsection (1-2) extends for one year the program of grants for construction of rehabilitation facilities, initial staffing and planning assistance and authorizes "such sums" as may be necessary to carry

out this purpose. Provision is also made that funds shall remain available to July 1, 1978.

SECTION 6. EXTENSION OF REHABILITATION TRAINING SERVICES FOR HANDICAPPED INDIVIDUALS

This section extends for one year the program of grants and contracts for training handicapped individuals and authorizes "such sums" as may be necessary to carry out this program.

SECTION 7. EXTENSION OF SPECIAL PROJECTS AND DEMONSTRATIONS

This section extends for one year the program of grants for special projects and demonstrations and authorizes \$20 million for this purpose.

SECTION 8. EXTENSION OF ASSISTANCE TO THE NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

This section extends for one year the funding of the National Center for Deaf-Blind Youths and Adults and provides "such sums" as may be necessary for such purposes.

SECTION 9. EXTENSION OF AUTHORITY FOR PROGRAM AND PROJECT EVALUATION

This section extends for one year the authority for program and project evaluation and provides "such sums" as may be necessary for this purpose.

SECTION 10. EXTENSION OF AUTHORIZATIONS FOR CARRYING OUT SECRETARIAL RESPONSIBILITIES

This section authorizes the Secretary to conduct certain activities such as the operation of the Office of the Handicapped, which is primarily an information and resource center and authorizes \$500,000 for carrying out this purpose.

SECTION 11. EXTENSION OF AUTHORITY FOR THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

This section extends the authority for the Architectural and Transportation Barriers Compliance Board for one additional year and authorizes \$1 million for carrying out its purposes.

SECTION 12. EXTENSION OF DATE FOR REPORT ON SPECIAL STUDY OF COMPREHENSIVE SERVICE NEEDS

This section extends the date for providing the Report on the Special Study of Comprehensive Service Needs to June 30, 1975.

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):

REHABILITATION ACT OF 1973

REHABILITATION SERVICES ADMINISTRATION

SEC. 3. (a) There is established in the [Department of Health, Education, and Welfare] *Office of the Secretary* a Rehabilitation Services Administration which shall be headed by a Commissioner ([hereinafter] *hereafter* in this Act referred to as the "Commissioner") appointed by the President. Except for titles IV and V and as otherwise specifically provided in this Act, such Administration shall be the principal agency for carrying out this Act. *In the performance of his functions, the Commissioner shall be directly responsible to the Office of the Secretary.* The Secretary shall not approve any delegation of the functions of the Commissioner to any other officer not directly responsible to the Commissioner unless the Secretary shall first submit a plan for such delegation to the Congress. Such delegation is effective at the end of the first period of sixty calendar days of continuous session of Congress after the date on which the plan for such delegation is transmitted to it: *Provided, however,* That within thirty days of such transmittal, the Secretary shall consult with the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives respecting such proposed delegation. For the purposes of this section, continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day and sixty-day periods. *In the performance of his functions, the Commissioner shall be directly responsible to the Office of the Secretary.*

TITLE I—VOCATIONAL REHABILITATION SERVICES

PART A—GENERAL PROVISIONS

DECLARATION OF PURPOSE; AUTHORIZATION OF APPROPRIATIONS

SEC. 100. (a) The purpose of this title is to authorize grants to assist States to meet the current and future needs of handicapped individuals, so that such individuals may prepare for and engage in gainful employment to the extent of their capabilities.

(b) (1) For the purpose of making grants to States under part B of this title to assist them in meeting costs of vocational rehabilitation

services provided in accordance with State plans under section 101, there is authorized to be appropriated \$650,000,000 for the fiscal year ending June 30, 1974, [and] \$680,000,000 for the fiscal year ending June 30, 1975, and \$720,000,000 for the fiscal year ending June 30, 1976.

(2) For the purpose of carrying out part C of this title (relating to grants to States and public and nonprofit agencies to assist them in meeting the cost of projects to initiate or expand services to handicapped individuals, especially those with the most severe handicaps) and part D of this title (relating to the study of comprehensive service needs of individuals with the most severe handicaps), there is authorized to be appropriated \$37,000,000 for the fiscal year ending June 30, 1974, [and] \$39,000,000 for the fiscal year ending June 30, 1975, and \$40,000,000 for the fiscal year ending June 30, 1976, and there is further authorized to be appropriated for such purposes for each such year such additional sums as the Congress may determine to be necessary. Of the sums appropriated under this paragraph for each such fiscal year, \$1,000,000 in each such year shall be available only for the purpose of carrying out Part D of this title.

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PART B—BASIC VOCATIONAL REHABILITATION SERVICES

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CLIENT ASSISTANCE

SEC. 112. (a) From the funds appropriated under section 304 for special projects and demonstrations in excess of an amount equal to the amount obligated for expenditure for carrying out such projects and demonstrations from appropriations under the Vocational Rehabilitation Act in the fiscal year ending June 30, 1973, the Secretary shall set aside up to \$1,500,000, but no less than \$500,000 for the fiscal year ending June 30, 1974, [and] up to \$2,500,000 but no less than \$1,000,000 for the fiscal year ending June 30, 1975, and up to \$2,500,000 but no less than \$1,000,000 for the fiscal year ending June 30, 1976, to establish in no less than 7 nor more than 20 geographically dispersed regions client assistance pilot projects (hereinafter in this section referred to as "projects") to provide counselors to inform and advise all clients and client applicants in the project area of all available benefits under this Act and, upon request of such client or client applicant, to assist such clients or applicants in their relationships with projects, programs, and facilities providing services to them under this Act.

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PART C—INNOVATION AND EXPANSION GRANTS

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PAYMENTS TO STATES

SEC. 121. (a) * * *

(b) Payments under this section with respect to any project may be made for a period of not to exceed three years beginning with the commencement of the project as approved, and sums appropriated for grants under this section shall remain available for such grants

through the fiscal year ending June 30, [1976] 1977. Payments with respect to any project may not exceed 90 per centum of the cost of such project. The non-Federal share of the cost of a project may be in cash or in kind and may include funds spent for project purposes by a cooperating public or nonprofit agency provided that it is not included as a cost in any other federally financed program.

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PART D—COMPREHENSIVE SERVICE NEEDS

SPECIAL STUDY

SEC. 130. (a) The Secretary shall conduct a comprehensive study, including research and demonstration projects of the feasibility of methods designed (1) to prepare individuals with the most severe handicaps for entry into programs under this Act who would not otherwise be eligible to enter such programs due to the severity of their handicap, and (2) to assist individuals with the most severe handicaps who, due to the severity of their handicaps or other factors such as their age, cannot reasonably be expected to be rehabilitated for employment but for whom a program of rehabilitation could improve their ability to live independently or function normally within their family and community. Such study shall encompass the extent to which other programs administered by the Secretary do or might contribute to the objectives set forth in clauses (1) and (2) of the preceding sentence and the methods by which all such programs can be coordinated at Federal, State, and local levels with those carried out under this Act to the end that individuals with the most severe handicaps are assured of receiving the kinds of assistance necessary for them to achieve such objectives.

(b) The Secretary shall report the findings of the study, research, and demonstrations directed by subsection (a) of this section to the Congress and to the President together with such recommendations for legislative or other action as he may find desirable, not later than [February 1,] June 30, 1975.

TITLE II—RESEARCH AND TRAINING

* * * * *

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) In order to make grants and contracts to carry out the purposes of this title, there is authorized to be appropriated:

(1) For the purpose of carrying out section 202 of this title, \$25,000,000 each for the fiscal years ending June 30, 1974, [and] June 30, 1975; and \$30,000,000 for the fiscal year ending June 30, 1976; and there is further authorized to be appropriated for such purpose for each such year such additional sums as the Congress may determine to be necessary. Of the sums appropriated under this paragraph, 20 per centum, and 25 per centum of the amounts appropriated in the first and second such fiscal years, respectively, and 25 per centum of the

amounts appropriated in the third such fiscal year, shall be available only for the purpose of carrying out activities under section 202(b) (2).

(2) For the purpose of carrying out section 203 of this title, there is authorized to be appropriated \$27,700,000 each for the fiscal years ending June 30, 1974, and June 30, 1975, and \$30,000,000 for the fiscal year ending June 30, 1976; and there is further authorized to be appropriated for such purpose for each such year such additional sums as the Congress may determine to be necessary.

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TITLE III—SPECIAL FEDERAL RESPONSIBILITIES

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GRANTS FOR CONSTRUCTION OF REHABILITATION FACILITIES

SEC. 301. (a) For the purpose of making grants and contracts under this section for construction of rehabilitation facilities, initial staffing, and planning assistance, there is authorized to be appropriated such sums as may be necessary for the fiscal years ending June 30, 1974, [and] June 30, 1975, and June 30, 1976. Amounts so appropriated shall remain available for expenditure with respect to construction projects funded or initial staffing grants made under this section prior to July 1, [1977] 1978.

* * * * *

VOCATIONAL TRAINING SERVICES FOR HANDICAPPED INDIVIDUALS

SEC. 302. (a) For the purpose of making grants and contracts under this section, there is authorized to be appropriated such sums as may be necessary for the fiscal years ending June 30, 1974, [and] June 30, 1975, and June 30, 1976.

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SPECIAL PROJECTS AND DEMONSTRATIONS

SEC. 304. (a) (1) For the purpose of making grants under this section for special projects and demonstrations (and research and evaluation connected therewith), there is authorized to be appropriated \$15,000,000 for the fiscal year ending June 30, 1974, [and] \$17,000,000 for the fiscal year ending June 30, 1975, and \$20,000,000 for the fiscal year ending June 30, 1976; and there is further authorized to be appropriated for such purposes for each such year such additional sums as the Congress may determine to be necessary.

* * * * *

NATIONAL CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

SEC. 305. (a) For the purpose of establishing and operating a National Center for Deaf-Blind Youths and Adults, there is author-

ized to be appropriated such sums as may be necessary for construction, which shall remain available until expended, and such sums as may be necessary for operations for the fiscal years ending June 30, 1974, [and] June 30, 1975, and June 30, 1976.

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TITLE IV—ADMINISTRATION AND PROGRAM AND PROJECT EVALUATION

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AUTHORIZATION OF APPROPRIATIONS

SEC. 403. There is authorized to be appropriated for the fiscal years ending June 30, 1974, [and] June 30, 1975, and June 30, 1976, such sums as the Secretary may require, but not to exceed an amount equal to one-half of 1 per centum of the funds appropriated under title I, II, and III of this Act or \$1,000,000, whichever is greater, to be available to conduct program and project evaluations as required by this title.

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SECRETARIAL RESPONSIBILITIES

SEC. 405. (a) * * *

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(d) There are authorized to be appropriated for carrying out this section \$500,000 each for the fiscal years ending June 30, 1974, and June 30, 1975, and \$500,000 for the fiscal year ending June 30, 1976.

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TITLE V—MISCELLANEOUS

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ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 502. (a) * * *

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(h) There are authorized to be appropriated for the purpose of carrying out the duties and functions of the Board under this section \$1,000,000 each for the fiscal years ending June 30, 1974, and June 30, 1975, and \$1,000,000 for the fiscal year ending June 30, 1976,

* * * * *

MINORITY VIEWS BY MR. LANDGREBE ON H.R. 14225

This bill is another example of the gross irresponsibility exhibited by the Committee on Education and Labor.

There were no hearings on H.R. 14225 and no consideration or mark-up by the Subcommittee on Select Education, to which the bill had been referred. Committee members were notified late Monday, May 13, that H.R. 14225 was being added to the schedule of the full committee for the next day. On Tuesday, the bill was hurriedly considered and passed. I now (May 17) understand that it is scheduled for consideration under suspension of the rules on May 21.

Obviously this bill is being railroaded through committee and, its proponents hope, through Congress. Why?

Undoubtedly to cover up Section 2, which transfers the Rehabilitation Services Administration from the Social and Rehabilitation Services to the Office of the Secretary of the Department of Health, Education and Welfare. This provision was contained in S. 7 last year which passed the Congress, was vetoed by President Nixon, after which the Senate sustained the President's veto. One of the major reasons for the veto of S. 7 last year was the fact that it contained a provision similar to Section 2 of H.R. 14225.

Now, the Committee on Education and Labor has rammed this bill through Committee without the courtesy of any proper consideration. Next Tuesday the Committee hopes to ram the bill through the House under suspension of the rules, in order to avoid the kind of embarrassing situation faced last year when the Rehabilitation Act of 1973 succeeded in becoming law only after the provision removing the Rehabilitation Services Administration from the S.R.S. and placing it directly under the Secretary of Health, Education and Welfare had been deleted.

There are, of course, many good reasons for allowing the structure of the Department of Health, Education and Welfare to remain as it is at present. Secretary Weinberger enumerated several of these reasons in a letter addressed to Chairman Perkins received May 14. The fact that the letter stating the Administration's position on H.R. 14225 was not received until the day the full committee voted to pass the bill, May 14, indicates the discourtesy of the Committee in giving the Administration such advance notice. I am attaching Secretary Weinberger's letter to Mr. Perkins, but I wish to emphasize some of the points he makes and add a few of my own.

The Secretary objects strongly to the transfer of the Rehabilitation Services Administration because it would disrupt the internal functioning of his Department and create a situation in which management decisions could not rationally be made nor efficiently executed. The Secretary emphasizes that the programs handled by S.R.S. are not only compatible with but complementary to the functions of the

Rehabilitation Services Administration. This is in striking contrast to the view stated in the Committee Report that "the Social and Rehabilitation Service, which is made up primarily of welfare programs is not a suitable home for the rehabilitation program which focuses on developing potential." Apparently we are to conclude from this comment that the welfare programs are *not* focused on "developing potential." But I suspect that this alleged incompatibility between the two programs is merely the cover rationalization for the relocation of the R.S.A. within the Department of Health, Education, and Welfare. The real reason for placing it directly under the Secretary's office would be to give its bureaucratic functions, and not its functions in serving the handicapped, greater emphasis.

It is neither the best interests of the clients of this vocational rehabilitation program nor the best interests of the American taxpayers that this transfer will further; it is only in the interests of those who wish to add new spending capacity to the R.S.A. in order that they might spend, spend, spend, inflate, inflate, inflate, and elect, elect, elect. I urge that H.R. 14225 be defeated by the House and that this drive to reorganize the Department of Health, Education, and Welfare be repelled.

EARL F. LANDEGREBE.

Following is Secretary Weinberger's letter.

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., May 14, 1974.

HON. CARL D. PERKINS,
Chairman, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing concerning H.R. 14225, a bill "to amend and extend the Rehabilitation Act of 1973 for one additional year," which your Committee will consider today. I wish to voice my strong objection to section 2 of that bill, which would provide for the transfer of the Rehabilitation Services Administration (RSA) to the Office of the Secretary.

The primary basis for my objection is that such a provision, if enacted, would seriously limit the Secretary's ability to make essential management decisions as to the best way to marshal the Department's resources based on his evaluation of its missions and capabilities.

In addition, in my view the separation of RSA from the Social and Rehabilitation Service (SRS) would be particularly unwise due to the commonality of purpose shared by the vocational rehabilitation program and other SRS programs, which has led to a close working relationship between them. For example, vocational rehabilitation shares two common goals with the social services program—increased self-sufficiency and self-support. To achieve these goals, these two programs frequently interact closely, to the added benefit of the disabled person pursuing his rehabilitation goal. Day care services, for example, enable disabled parents, who might otherwise be unable to leave their homes and children, to pursue their vocational rehabilitation programs. Such interaction and coordination is clearly enhanced

by grouping the vocational rehabilitation program in SRS with other programs sharing related goals and would be seriously disrupted by separating them.

Also, this would be a particularly bad time to transfer RSA for two reasons. First, RSA is now in the final stages of preparation for the implementation of the Rehabilitation Act of 1973. Regulations, which have benefited from the rigorous evaluation and input by the House and Senate Committee staffs, will be published for public comment in the next few days, and contracts for special studies are being let. This process of implementation, which is now at such a crucial stage, would be seriously crippled by the inevitable disruption that the transfer of RSA would cause. In addition, the Office of Human Development in the Office of the Secretary, which would be the only logical component in which to place RSA, is only a little more than a year old. In that year it has assumed, as you know, many crucial new responsibilities, and it is still developing its capacity for effectively carrying them out. This process of development would be seriously threatened by the assumption of an operational program of such major proportions as the vocational rehabilitation program.

I hope that you and other members of your Committee give the above objections your very serious consideration and delete section 2 from H.R. 14225.

With regard to the remaining provisions of the bill, which would extend the Rehabilitation Act of 1973 through fiscal year 1976, I would suggest an additional provision extending the deadline of some of the studies mandated by that Act. Due to the importance and complexity of these studies, it will be necessary to allow additional time for their completion in order to produce the desired results. For example, section 130 of the Act requires that a comprehensive service needs study be completed by February 1, 1975. We estimate, however, that we will not be able to complete a study of the high quality desired before September 30, 1975.

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

REHABILITATION ACT AMENDMENTS OF 1974

OCTOBER 9, 1974.—Ordered to be printed

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

CONFERENCE REPORT

[To accompany H.R. 14225]



The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14225) to amend and extend the Rehabilitation Act of 1973 for 1 additional year, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

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

SEC. 100. This title shall be known as the "Rehabilitation Act Amendments of 1974".

REHABILITATION SERVICES ADMINISTRATION

SEC. 101. (a) Section 3(a) of the Rehabilitation Act of 1973 is amended to read as follows:

"(a) There is established in the Office of the Secretary a Rehabilitation Services Administration which shall be headed by a Commissioner (hereinafter in this Act referred to as the 'Commissioner') appointed by the President by and with the advice and consent of the Senate. Except for titles IV and V and as otherwise specifically provided in this Act, such Administration shall be the principal agency, and the Commissioner shall be the principal officer, of such Department for carrying out this Act. In the performance of his functions, the Commissioner shall be directly responsible to the Secretary or to the Under Secretary or an appropriate Assistant Secretary of such Department, as designated by the Secretary. The functions of the Commissioner shall not be delegated to any officer not directly responsible, both with respect to program operation and administration, to the Commissioner."

(b) The amendment made by subsection (a) of this section shall be effective sixty days after the date of enactment of this Act.

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL
REHABILITATION SERVICES

SEC. 102. (a) Section 100(b) of such Act is amended by—

(1) striking out "and" after "1974," in paragraph (1) and inserting before the period at the end of such paragraph a comma and "and \$720,000,000 for the fiscal year ending June 30, 1976"; and

(2) striking out "and" after "1974," in the first sentence of paragraph (2) and inserting after "1975," in such sentence "and \$42,000,000 for the fiscal year ending June 30, 1976";

(b) Section 112(a) of such Act is amended by striking out "and" after "1974," and by inserting "and up to \$2,500,000 but no less than \$1,000,000 for the fiscal year ending June 30, 1976," after "1975,"

(c) Section 121(b) of such Act is amended by striking out "1976" and inserting in lieu thereof "1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH
AND TRAINING

SEC. 103. Section 201(a) of such Act is amended by—

(1) striking out "and" after "1974," in the first sentence of paragraph (1) and inserting after "1975" in such sentence a comma and "and \$32,000,000 for the fiscal year ending June 30, 1976";

(2) striking out the comma after "20 per centum" in the second sentence of paragraph (1) and inserting after "respectively," in such sentence "and 25 per centum of the amounts appropriated in each succeeding fiscal year"; and

(3) striking out "there is authorized to be appropriated" in paragraph (2) and inserting after "1975" in such paragraph a comma and "and \$32,000,000 for the fiscal year ending June 30, 1976".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR GRANTS FOR
CONSTRUCTION OF REHABILITATION FACILITIES

SEC. 104. Section 301(a) of such Act is amended by—

(1) striking out "and" after "1974," in the first sentence and inserting before the period at the end of such sentence a comma and "and June 30, 1976"; and

(2) striking out "1977" in the last sentence and inserting in lieu thereof "1978".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL
TRAINING SERVICES FOR HANDICAPPED INDIVIDUALS

SEC. 105. Section 302(a) of such Act is amended by striking out "and" after "1974," and by inserting after "1975" a comma and "and June 30, 1976".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL PROJECTS
AND DEMONSTRATIONS

SEC. 106. Section 304(a)(1) of such Act is amended by striking out "and" after "1974," and by inserting after "1975" a comma and "and \$20,000,000 for the fiscal year ending June 30, 1976".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL CENTER
FOR DEAF-BLIND YOUTHS AND ADULTS

SEC. 107. Section 305(a) of such Act is amended by striking out "and" after "1974," and by inserting after "1975" a comma and "and June 30, 1976".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM AND
PROJECT EVALUATION

SEC. 108. Section 403 of such Act is amended by striking out "and" after "1974," and by inserting after "1975," the following: "and June 30, 1976".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SECRETARIAL
RESPONSIBILITIES

SEC. 109. Section 405(d) of such Act is amended by inserting before the period a comma and "and \$600,000 for the fiscal year ending June 30, 1976".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR ARCHITECTURAL
AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 110. Section 502(h) of such Act is amended by inserting before the period at the end thereof a comma and "and \$1,500,000 for the fiscal year ending June 30, 1976".

MISCELLANEOUS AMENDMENTS

SEC. 111. (a) Section 7(6) of such Act is amended by adding at the end thereof the following new sentence: "For the purposes of titles IV and V of this Act, such term means any person who (A) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (B) has a record of such an impairment, or (C) is regarded as having such an impairment."

(b) Section 101(a)(6) of such Act is amended by adding at the end thereof before the semicolon "including a requirement that the State agency and facilities in receipt of assistance under this title shall take affirmative action to employ and advance in employment qualified handicapped individuals covered under, and on the same terms and conditions as set forth in, section 503)".

(c) Section 101(a)(9)(C) of such Act is amended by adding at the end thereof before the semicolon "in such detail as required by the Secretary in order for him to analyze and evaluate annually the reasons for and numbers of such ineligibility determinations as part of his responsibilities under section 401, and that the State agency will at least annually categorize and analyze such reasons and numbers and report this information to the Secretary and will, not later than 12 months after each such determination, review each such ineligibility determination in accordance with the criteria set forth in section 102".

(d) Section 101(a)(15) of such Act is amended by inserting after "facilities" at the end of the parenthetical "and review of the efficacy of the criteria employed with respect to ineligibility determinations described in subclause (C) of clause (9) of this subsection".

(e) Section 102 of such Act is amended by—

(1) inserting in subsection (a) after "program" where it first appears in the first sentence a comma and "or the specification of reasons for a determination of ineligibility prior to initiation of such program based on preliminary diagnosis," and inserting at the end of the second sentence of such subsection before the period a comma and "and, as appropriate, such specification of reasons for such an ineligibility determination shall set forth the rights and remedies, including recourse to the process set forth in subsection (b) (5) of this section, available to the individual in question";

(2) striking out in subsection (c) all of clause (1) from "in" the first time it appears through "primary" and inserting in lieu thereof "in making any determination of ineligibility referred to in subsection (a) of this section, or in developing and carrying out the individualized written rehabilitation program required by section 101 in the case of each handicapped individual";

(3) striking out in clause (2) of subsection (c) "program, that the evaluation of rehabilitation potential" and inserting in lieu thereof "program, or as a part of the specification of reasons for an ineligibility determination, as appropriate, that the preliminary diagnosis or evaluation of rehabilitation potential, as appropriate,"; and

(4) inserting in clause (3) of subsection (c) a comma and "as an amendment to such written program," after "decision".

(f) Section 112(a) is amended by—

(1) striking out "an amount equal to the amount obligated for expenditure for carrying out such projects and demonstrations for appropriations under the Vocational Rehabilitation Act in the fiscal year ending June 30, 1973," and inserting in lieu thereof "\$11,860,000"; and

(2) adding at the end thereof a new sentence as follows: "In the event that funds so appropriated under section 304 do not exceed \$11,860,000 in any fiscal year, the Secretary is authorized to utilize such funds to carry out this section."

(g) Section 130(b) of such Act is amended by striking out "February 1, 1975" and inserting in lieu thereof "June 30, 1975".

(h) Section 202(a) of such Act is amended by striking out "and analyses" in the penultimate clause and inserting in lieu thereof a comma and "analyses, and demonstrations".

(i) Section 304(b) of such Act is amended by—

(1) striking out "and" before "(2)" in the first sentence, and inserting at the end of such sentence before the period a comma and "and (3) for operating programs (including renovation and construction of facilities, where appropriate) to demonstrate methods of making recreational activities fully accessible to handicapped individuals"; and

(2) striking out "for" the third time it appears in the parenthetical in clause (2) in the first sentence and inserting in lieu thereof "or".

(j) Section 304(c) of such Act is amended by inserting after "Labor," in the first sentence "who".

(k) Section 304(e) (1) of such Act is amended by inserting after "(B)" the following: "with the concurrence of the Board established by section 502,".

(l) (1) Section 306(b) of such Act is amended by inserting after "project" a comma and "or for a project which involves construction,".

(2) Section 306(b) (4) of such Act is amended by inserting after "specifications" the following: "which have been approved by the Board established by section 502,".

(m) Section 405(c) of such Act is amended by—

(1) striking out "the Handicapped" and inserting in lieu thereof "Handicapped Individuals"; and

(2) by adding at the end thereof the following new sentence: "In no event shall any functions under this section be further delegated to any persons with operational responsibilities for carrying out functions authorized under any other section of this Act or under any other provision of law designed to benefit handicapped individuals."

(n) (1) Section 502(a) of such Act is amended by redesignating clauses (6), (7), and (8) thereof as clauses (7); (8), and (9), respectively, and by inserting immediately after clause (5) the following new clause:

(6) Department of Defense,".

(2) Section 502(a) of such Act is further amended by adding at the end thereof the following new sentence: "The Secretary of Health, Education, and Welfare shall be the Chairman of the Board, and the Board shall appoint, upon recommendation of the Secretary, a Consumer Advisory Panel, a majority of the members of which shall be handicapped individuals, to provide guidance, advice, and recommendations to the Board in carrying out its functions."

(o) (1) Section 502(d) of such Act is amended by striking out "section, the Board" in the first sentence and inserting in lieu thereof "Act, the Board shall, directly or through grants to or contracts with public or private nonprofit organizations, carry out its functions under subsections (b) and (c) of this section, and".

(2) Section 502(d) of such Act is further amended by adding at the end thereof the following new sentences: "Any such order affecting any Federal department, agency, or instrumentality of the United States shall be final and binding on such department, agency, or instrumentality. An order of compliance may include the withholding or suspension of Federal funds with respect to any building found not to be in compliance with standards prescribed pursuant to the Acts cited in subsection (b) of this section."

(p) Section 502(e) of such Act is amended by adding before the first sentence the following new first sentence: "There shall be appointed by the Board an executive director and such other professional and clerical personnel as are necessary to carry out its functions under this Act."

(q) Section 502(g) of such Act is amended by striking out in the penultimate sentence "prior to January 1" and inserting in lieu thereof "not later than September 30".

TITLE II—RANDOLPH-SHEPPARD ACT AMENDMENTS

SHORT TITLE

SEC. 200. This title may be cited as the "Randolph-Sheppard Act Amendments of 1974".

FINDINGS

SEC. 201. *The Congress finds—*

(1) after review of the operation of the blind vending stand program authorized under the Randolph-Sheppard Act of June 20, 1936, that the program has not developed, and has not been sustained, in the manner and spirit in which the Congress intended at the time of its enactment, and that, in fact, the growth of the program has been inhibited by a number of external forces;

(2) that the potential exists for doubling the number of blind operators on Federal and other property under the Randolph-Sheppard program within the next five years, provided the obstacles to growth are removed, that legislative and administrative means exist to remove such obstacles, and that Congress should adopt legislation to that end; and

(3) that at a minimum the following actions must be taken to insure the continued vitality and expansion of the Randolph-Sheppard program—

(A) establish uniformity of treatment of blind vendors by all Federal departments, agencies, and instrumentalities,

(B) establish guidelines for the operation of the program by State licensing agencies,

(C) require coordination among the several entities with responsibility for the program,

(D) establish a priority for vending facilities operated by blind vendors on Federal property,

(E) establish administrative and judicial procedures under which fair treatment of blind vendors, State licensing agencies, and the Federal Government is assured,

(F) require stronger administration and oversight functions in the Federal office carrying out the program, and

(G) accomplish other legislative and administrative objectives which will permit the Randolph-Sheppard program to flourish.

OPERATION OF VENDING FACILITIES ON FEDERAL PROPERTY

SEC. 202. The first section of the Act entitled "An Act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes" (hereafter referred to in this title as the "Randolph-Sheppard Act"), approved June 20, 1936, as amended (20 U.S.C. 107), is amended by striking out all after the enacting clause and inserting in lieu thereof the following:

"That (a) for the purposes of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make

themselves self-supporting, blind persons licensed under the provisions of this Act shall be authorized to operate vending facilities on any Federal property.

"(b) In authorizing the operation of vending facilities on Federal property, priority shall be given to blind persons licensed by a State agency as provided in this Act; and the Secretary, through the Commissioner, shall, after consultation with the Administrator of General Services and other heads of departments, agencies, or instrumentalities of the United States in control of the maintenance, operation, and protection of Federal property, prescribe regulations designed to assure that—

"(1) the priority under this subsection is given to such licensed blind persons (including assignment of vending machine income pursuant to section 7 of this Act to achieve and protect such priority), and

"(2) wherever feasible, one or more vending facilities are established on all Federal property to the extent that any such facility or facilities would not adversely affect the interests of the United States.

Any limitation on the placement or operation of a vending facility based on a finding that such placement or operation would adversely affect the interests of the United States shall be fully justified in writing to the Secretary, who shall determine whether such limitation is justified. A determination made by the Secretary pursuant to this provision shall be binding on any department, agency, or instrumentality of the United States affected by such determination. The Secretary shall publish such determination, along with supporting documentation, in the Federal Register."

FEDERAL AND STATE RESPONSIBILITIES

SEC. 203. (a) (1) Section 2(a) of the Randolph-Sheppard Act is amended by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively, and by inserting the following new paragraph (1):

"(1) Insure that the Rehabilitation Services Administration is the principal agency for carrying out this Act; and the Commissioner shall, within one hundred and eighty days after enactment of the Randolph-Sheppard Act Amendments of 1974, establish requirements for the uniform application of this Act by each State agency designated under paragraph (5) of this subsection, including appropriate accounting procedures, policies on the selection and establishment of new vending facilities, distribution of income to blind vendors, and the use and control of set-aside funds under section 3(3) of this Act;"

(2) Section 2(a) (2) of such Act, as redesignated by paragraph (1) of this subsection, is amended to read as follows:

"(2) Through the Commissioner, make annual surveys of concession vending opportunities for blind persons on Federal and other property in the United States, particularly with respect to Federal property under the control of the General Services Administration, the Department of Defense, and the United States Postal Service;"

(3) Section 2(a) (5) of such Act, as redesignated by paragraph (1) of this subsection, is amended—

(A) by striking out "commission" each place it appears and inserting in lieu thereof "agency";

(B) by striking out "and at least twenty-one years of age";

(C) by striking out "articles dispensed automatically or in containers or wrapping in which they are placed before receipt by the vending stand, and such other articles as may be approved for each property by the department or agency in control of the maintenance, operation, and protection thereof and the State licensing agency in accordance with the regulations prescribed pursuant to the first section" and inserting in lieu thereof the following: "foods, beverages, and other articles or services dispensed automatically or manually, and prepared on or off the premises in accordance with all applicable health laws, as determined by the State licensing agency, and including the vending or exchange of chances for any lottery authorized by State law and conducted by an agency of a State";

(D) by striking out "stands" and "stand" and inserting in lieu thereof "facilities" and "facility", respectively, and

(E) by striking out the colon and all matter following the colon, and inserting in lieu thereof "; and".

(4) Section 2(a)(6) of such Act, as redesignated by paragraph (1) of this subsection, is amended to read as follows:

"(6) Through the Commission, (A) conduct periodic evaluations of the program authorized by this Act, including upward mobility and other training required by section 8, and annually submit to the appropriate committees of Congress a report based on such evaluations, and (B) take such other steps, including the issuance of such rules and regulations, as may be necessary or desirable in carrying out the provisions of this Act."

(b) Section 2(b) of such Act is amended—

(1) by striking out "stand" the first time it appears in the first sentence and where it appears in the second sentence and inserting in lieu thereof "facility";

(2) by striking out "and have resided for at least one year in the State in which such stand is located"; and

(3) by striking out "but are able, in spite of such infirmity, to operate such stands".

(c) Section 2(c) of such Act is amended by striking out "stand" in each place in which it appears and inserting in lieu thereof "facility".

(d) Section 2 of such Act is further amended by adding at the end thereof the following new subsections:

"(d) (1) After January 1, 1975, no department, agency, or instrumentality of the United States shall undertake to acquire by ownership, rent, lease, or to otherwise occupy, in whole or in part, any building unless, after consultation with the head of such department, agency, or instrumentality and the State licensing agency, it is determined by the Secretary that (A) such building includes a satisfactory site or sites for the location and operation of a vending facility by a blind person, or (B) if a building is to be constructed, substantially altered, or renovated, or in the case of a building that is already occupied on such date by such department, agency, or instrumentality,

is to be substantially altered or renovated for use by such department, agency, or instrumentality, the design for such construction, substantial alteration, or renovation includes a satisfactory site or sites for the location and operation of a vending facility by a blind person. Each such department, agency, or instrumentality shall provide notice to the appropriate State licensing agency of its plans for occupation, acquisition, renovation, or relocation of a building adequate to permit such State agency to determine whether such building includes a satisfactory site or sites for a vending facility.

"(2) The provisions of paragraph (1) shall not apply (A) when the Secretary and the State licensing agency determine that the number of people using the property is or will be insufficient to support a vending facility, or (B) to any privately owned building, any part of which is leased by any department, agency, or instrumentality of the United States and in which, (i) prior to the execution of such lease, the lessor or any of his tenants had in operation a restaurant or other food facility in a part of the building not included in such lease, and (ii) the operation of such a vending facility by a blind person would be in proximate and substantial direct competition with such restaurant or other food facility except that each such department, agency, and instrumentality shall make every effort to lease property in privately owned buildings capable of accommodating a vending facility.

"(3) For the purposes of this subsection, the term 'satisfactory site' means an area determined by the Secretary to have sufficient space, electrical and plumbing outlets, and such other facilities as the Secretary may by regulation prescribe, for the location and operation of a vending facility by a blind person.

"(e) In any State having an approved plan for vocational rehabilitation pursuant to the Vocational Rehabilitation Act or the Rehabilitation Act of 1973 (Public Law 93-112), the State licensing agency designated under paragraph (5) of subsection (a) of this section shall be the State agency designated under section 101(a)(1)(A) of such Rehabilitation Act of 1975."

DUTIES OF STATE LICENSING AGENCIES AND ARBITRATION

SEC. 204. (a) Section 3 of the Randolph-Sheppard Act is amended—

(1) by striking out "commission" and inserting in lieu thereof "agency";

(2) by striking out in paragraphs (2) and (3) "stand" and "stands" wherever such terms appear and inserting in lieu thereof "facility" and "facilities", respectively; and

(3) by striking out in paragraph (6) the word "stand" and inserting in lieu thereof "facility", and, by inserting immediately before the period the following: ", and to agree to submit the grievances of any blind licensee not otherwise resolved by such hearing to arbitration as provided in section 5 of this Act".

(b) Section 3(3) of such Act is further amended by striking out "and" immediately before subparagraph (D) and by inserting immediately before the colon at the end of such subparagraph the following "; and (E) retirement or pension funds, health insurance contributions, and provision for paid sick leave and vacation time, if it is determined by a majority vote of blind licensees licensed by such

State agency, after such agency provides to each such licensee full information on all matters relevant to such proposed program, that funds under this paragraph shall be set aside for such purposes".

(c) Section 3(3) of such Act is further amended by inserting before the word "proceeds" in both places it appears, the word "net".

REPEALS

SEC. 205. Sections 4 and 7 of the Randolph-Sheppard Act are repealed.

ARBITRATION; VENDING MACHINE INCOME; PERSONNEL; TRAINING

SEC. 206. The Randolph-Sheppard Act is further amended by redesignating sections 5, 6, and 8, as sections 4, 9, and 10, respectively, and by inserting immediately after section 4, as redesignated, the following new sections:

"SEC. 5. (a) Any blind licensee who is dissatisfied with any action arising from the operation or administration of the vending facility program may submit to a State licensing agency a request for a full evidentiary hearing, which shall be provided by such agency in accordance with section 3(6) of this Act. If such blind licensee is dissatisfied with any action taken or decision rendered as a result of such hearing, he may file a complaint with the Secretary who shall convene a panel to arbitrate the dispute pursuant to section 6 of this Act, and the decision of such panel shall be final and binding on the parties except as otherwise provided in this Act.

"(b) Whenever any State licensing agency determines that any department, agency, or instrumentality of the United States that has control of the maintenance, operation, and protection of Federal property is failing to comply with the provisions of this Act or any regulations issued thereunder (including a limitation on the placement or operation of a vending facility as described in section 1(b) of this Act and the Secretary's determination thereon) such licensing agency may file a complaint with the Secretary who shall convene a panel to arbitrate the dispute pursuant to section 6 of this Act, and the decision of such panel shall be final and binding on the parties except as otherwise provided in this Act.

"SEC. 6. (a) Upon receipt of a complaint filed under section 5 of this Act, the Secretary shall convene an ad hoc arbitration panel as provided in subsection (b). Such panel shall, in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, give notice, conduct a hearing, and render its decision which shall be subject to appeal and review as a final agency action for purposes of chapter 7 of such title 5.

"(b) (1) The arbitration panel convened by the Secretary to hear grievances of blind licensees shall be composed of three members appointed as follows:

"(A) one individual designated by the State licensing agency;

"(B) one individual designated by the blind licensee; and

"(C) one individual, not employed by the State licensing agency or, where appropriate, its parent agency, who shall serve as chairman, jointly designated by the members appointed under subparagraphs (A) and (B).

If any party fails to designate a member under subparagraph (1) (A), (B), or (C), the Secretary shall designate such member on behalf of such party.

"(2) The arbitration panel convened by the Secretary to hear complaints filed by a State licensing agency shall be composed of three members appointed as follows:

"(A) one individual, designated by the State licensing agency;

"(B) one individual, designated by the head of the Federal department, agency, or instrumentality controlling the Federal property over which the dispute arose; and

"(C) one individual, not employed by the Federal department, agency, or instrumentality controlling the Federal property over which the dispute arose, who shall serve as chairman, jointly designated by the members appointed under subparagraphs (A) and (B).

If any party fails to designate a member under subparagraph (2) (A), (B), or (C), the Secretary shall designate such member on behalf of such party. If the panel appointed pursuant to paragraph (2) finds that the acts or practices of any such department, agency, or instrumentality are in violation of this Act, or any regulation issued thereunder, the head of any such department, agency, or instrumentality shall cause such acts or practices to be terminated promptly and shall take such other action as may be necessary to carry out the decision of the panel.

"(c) The decisions of a panel convened by the Secretary pursuant to this section shall be matters of public record and shall be published in the Federal Register.

"(d) The Secretary shall pay all reasonable costs of arbitration under this section in accordance with a schedule of fees and expenses he shall publish in the Federal Register.

"SEC. 7. (a) In accordance with the provisions of subsection (b) of this section, vending machine income obtained from the operation of vending machines on Federal property shall accrue (1) to the blind licensee operating a vending facility on such property, or (2) in the event there is no blind licensee operating such facility on such property, to the State agency in whose State the Federal property is located, for the uses designated in subsection (c) of this section, except that with respect to income which accrues under clause (1) of this subsection, the Commissioner may prescribe regulations imposing a ceiling on income from such vending machines for an individual blind licensee. In the event such a ceiling is imposed, no blind licensee shall receive less vending machine income under such ceiling than he was receiving on January 1, 1974. No limitation shall be imposed on income from vending machines, combined to create a vending facility, which are maintained, serviced, or operated by a blind licensee. Any amounts received by a blind licensee that are in excess of the amount permitted to accrue to him under any ceiling imposed by the Commissioner shall be disbursed to the appropriate State agency under clause (2) of this subsection and shall be used by such agency in accordance with subsection (c) of this section.

"(b) (1) After January 1, 1975, 100 per centum of all vending machine income from vending machines on Federal property which

are in direct competition with a blind vending facility shall accrue as specified in subsection (a) of this section. 'Direct competition' as used in this section means the existence of any vending machines or facilities operated on the same premises as a blind vending facility except that vending machines or facilities operated in areas serving employees the majority of whom normally do not have direct access to the blind vending facility shall not be considered in direct competition with the blind vending facility. After January 1, 1975, 50 per centum of all vending machine income from vending machines on Federal property which are not in direct competition with a blind vending facility shall accrue as specified in subsection (a) of this section, except that with respect to Federal property at which at least 50 per centum of the total hours worked on the premises occurs during periods other than normal working hours, [25] 30 per centum of such income shall so accrue.

"(2) The head of each department, agency, and instrumentality of the United States shall insure compliance with this section with respect to buildings, installations, and facilities under his control, and shall be responsible for collection of, and accounting for, such vending machine income.

"(c) All vending machine income which accrues to a State licensing agency pursuant to subsection (a) of this section shall be used to establish retirement or pension plans, for health insurance contributions, and for provision of paid sick leave and vacation time for blind licensees in such State, subject to a vote of blind licensees as provided under section 3(3) (E) of this Act. Any vending machine income remaining after application of the first sentence of this subsection shall be used for the purposes specified in sections 3(3) (A), (B), (C), and (D) of this Act, and any assessment charged to blind licensees by a State licensing agency shall be reduced pro rata in an amount equal to the total of such remaining vending machine income.

"(d) Subsections (a) and (b) (1) of this section shall not apply to income from vending machines within retail sales outlets under the control of exchange or ships' stores systems authorized by title 10, United States Code, or to income from vending machines operated by the Veterans Canteen Service, or to income from vending machines not in direct competition with a blind vending facility at individual locations, installations, or facilities on Federal property the total of which at such individual locations, installations, or facilities does not exceed \$3,000 annually.

"(e) The Secretary, through the Commissioner, shall prescribe regulations to establish a priority for the operation of cafeterias on Federal property by blind licensees when he determines, on an individual basis and after consultation with the head of the appropriate installation, that such operation can be provided at a reasonable cost with food of a high quality comparable to that currently provided to employees, whether by contract or otherwise.

"(f) This section shall not operate to preclude preexisting or future arrangements, or regulations of departments, agencies, or instrumentalities of the United States, under which blind licensees (1) receive a greater percentage or amount of vending machine income than that specified in subsection (b) (1) of this section, or (2) receive

vending machine income from individual locations, installations, or facilities on Federal property the total of which at such individual locations, installations, or facilities does not exceed \$3,000 annually.

"(g) The Secretary shall take such action and promulgate such regulations as he deems necessary to assure compliance with this section.

"Sec. 8. The Commissioner shall insure, through promulgation of appropriate regulations, that uniform and effective training programs, including on-the-job training, are provided for blind individuals, through services under the Rehabilitation Act of 1973 (Public Law 93-112). He shall further insure that State agencies provide programs for upward mobility (including further education and additional training or retraining for improved work opportunities) for all trainees under this Act, and that follow-along services are provided to such trainees to assure that their maximum vocational potential is achieved."

DEFINITIONS

SEC. 207. Section 9 of the Randolph-Sheppard Act, as redesignated by section 206 of this title, is amended to read as follows:

"SEC. 9. As used in this Act—

"(1) 'blind person' means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty degrees. In determining whether an individual is blind, there shall be an examination by a physician skilled in diseases of the eye, or by an optometrist, whichever the individual shall select;

"(2) 'Commissioner' means the Commissioner of the Rehabilitation Services Administration;

"(3) 'Federal property' means any building, land, or other real property owned, leased, or occupied by any department, agency, or instrumentality of the United States (including the Department of Defense and the United States Postal Service), or any other instrumentality wholly owned by the United States, or by any department or agency of the District of Columbia or any territory or possession of the United States;

"(4) 'Secretary' means the Secretary of Health, Education, and Welfare;

"(5) 'State' means a State, territory, possession, Puerto Rico, or the District of Columbia;

"(6) 'United States' includes the several States, territories, and possessions of the United States, Puerto Rico, and the District of Columbia;

"(7) 'vending facility' means automatic vending machines, cafeterias, snack bars, cart services, shelters, counters, and such other appropriate auxiliary equipment as the Secretary may by regulation prescribe as being necessary for the sale of the articles or services described in section 2(a) (5) of this Act and which may be operated by blind licensees; and

"(8) 'vending machine income' means receipts (other than those of a blind licensee) from vending machine operations on Federal

property, after cost of goods sold (including reasonable service and maintenance costs), where the machines are operated, serviced, or maintained by, or with the approval of, a department, agency, or instrumentality of the United States, or commissions paid (other than to a blind licensee) by a commercial vending concern which operates, services, and maintains vending machines on Federal property for, or with the approval of, a department, agency, or instrumentality of the United States."

PERSONNEL

Sec. 208. (a) The Secretary of Health, Education, and Welfare is directed to assign to the Office for the Blind and Visually Handicapped of the Rehabilitation Services Administration of the Department of Health, Education, and Welfare ten additional full-time personnel (or their equivalent), five of whom shall be supportive personnel to carry out duties related to the administration of the Randolph-Sheppard Act.

(b) Section 5108(c) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (11) the following new paragraph:

"(12) the Secretary of Health, Education, and Welfare, subject to the standards and procedures prescribed by this chapter, may place one additional position in the Office for the Blind and Visually Handicapped of the Rehabilitation Services Administration in GS-16, GS-17, or GS-18."

(c) In selecting personnel to fill any position under this section, the Secretary of Health, Education, and Welfare shall give preference to blind individuals.

(d) Section 4(b) of the Randolph-Sheppard Act, as redesignated by section 206 of this title, is amended by striking out ", and at least 50 per centum of such additional personnel shall be blind persons".

ADDITIONAL STAFF RESPONSIBILITIES

Sec. 209. In addition to other requirements imposed in this title and in the Randolph-Sheppard Act upon State licensing agencies, such agencies shall—

(1) provide to each blind licensee access to all relevant financial data, including quarterly and annual financial reports, on the operation of the State vending facility program;

(2) conduct the biennial election of a Committee of Blind Vendors who shall be fully representative of all blind licensees in the State program, and

(3) insure that such committee's responsibilities include (A) participation, with the State agency, in major administrative decisions and policy and program development, (B) receiving griev-

ances of blind licensees and serving as advocates for such licensees, (C) participation, with the State agency, in the development and administration of a transfer and promotion system for blind licensees, (D) participation, with the State agency, in developing training and retraining programs, and (E) sponsorship, with the assistance of the State agency, of meetings and instructional conferences for blind licensees.

STANDARDS, STUDIES, AND REPORTS

Sec. 210. (a) The Secretary, through the Commissioner, after a period of study not to exceed six months following the date of enactment of this title, and after full consultation with, and full consideration of the views of, blind vendors and State licensing agencies, shall promulgate national standards for funds set aside pursuant to section 3 (3) of the Randolph-Sheppard Act which include maximum and minimum amounts for such funds, and appropriate contributions, if any, to such funds by blind vendors.

(b) (1) The Secretary shall study the feasibility and desirability of establishing a nationally administered retirement, pension, and health insurance system for blind licensees, and such study shall include, but not be limited to, consideration of eligibility standards, amounts and sources of contributions, number of potential participants, total costs, and alternative forms of administration, including trust funds and revolving funds.

(2) The Secretary shall, within one year following the date of enactment of this title, complete the study required by paragraph (1) of this subsection and report his findings, together with any recommendations, to the President and the Congress.

(c) The Secretary shall, not later than September 30, 1975, complete an evaluation of the method of assigning vending machine income under section 7 (b) (1) of the Randolph-Sheppard Act, including its effect on the growth of the program authorized by the Act, and on the operation of nonappropriated fund activities, and within thirty days thereafter he shall report his findings, together with any recommendations, to the appropriate committees of the Congress.

(d) Each State licensing agency shall, within one year following the date of enactment of this title, submit to the Secretary a report, with appropriate supporting documentation, which shows the actions taken by such agency to meet the requirements of section 2(a) (1) of the Randolph-Sheppard Act.

AUDIT

Sec. 211. The Comptroller General is authorized to conduct regular and periodic audits of all nonappropriated fund activities which receive income from vending machines on Federal property, under such rules and regulations as he may prescribe. In the conduct of such audits he and his duly authorized representatives shall have access to any relevant books, documents, papers, accounts, and records of such activities as he deems necessary.

TITLE III—WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

SHORT TITLE

SEC. 300. This title may be cited as the "White House Conference on Handicapped Individuals Act".

FINDINGS AND POLICY

SEC. 301. The Congress finds that—

(1) the United States has achieved great and satisfying success in making possible a better quality of life for a large and increasing percentage of our population;

(2) the benefits and fundamental rights of this society are often denied those individuals with mental and physical handicaps;

(3) there are seven million children and at least twenty-eight million adults with mental and physical handicaps;

(4) it is of critical importance to this Nation that equality of opportunity, equal access to all aspects of society and equal rights guaranteed by the Constitution of the United States be provided to all individuals with handicaps;

(5) the primary responsibility for meeting the challenge and problems of individuals with handicaps has often fallen on the individual or his family;

(6) it is essential that recommendations be made to assure that all individuals with handicaps are able to live their lives independently and with dignity, and that the complete integration of all individuals with handicaps into normal community living, working, and service patterns be held as the final objective; and

(7) all levels of Government must necessarily share responsibility for developing opportunities for individuals with handicaps;

and it is therefore the policy of the Congress that the Federal Government work jointly with the States and their citizens to develop recommendations and plans for action in solving the multifold problems facing individuals with handicaps.

AUTHORITY OF PRESIDENT, COUNCIL, AND SECRETARY

SEC. 302. (a) The President is authorized to call a White House Conference on Handicapped Individuals not later than two years after the date of enactment of this title in order to develop recommendations and stimulate a national assessment of problems, and solutions to such problems, facing individuals with handicaps. Such a conference shall be planned and conducted under the direction of the National Planning and Advisory Council, established pursuant to subsection (b) of this section, and the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") and each Federal department and agency shall provide such cooperation and assistance to the Council, including the assignment of personnel, as may reasonably be required by the Secretary.

(b) (1) There is established a National Planning and Advisory Council (in this title referred to as the "Council"), appointed by the Secretary, composed of twenty-eight members of whom not less than ten shall be individuals with handicaps appointed to represent all individuals with handicaps, and five shall be parents of individuals with handicaps appointed to represent all such parents and individuals. The Council shall provide guidance and planning for the Conference.

(2) Any member of the Council who is otherwise employed by the Federal Government shall serve without compensation in addition to that received in his regular employment.

(3) Members of the Council, other than those referred to in paragraph (1), shall receive compensation at rates not to exceed the daily rate prescribed for GS-18 under section 5332, title 5, United States Code, for each day they are engaged in the performance of their duties (including traveltime); and, while so serving away from their homes or regular places of business, they shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703, title 5, United States Code, for persons in Government service employed intermittently.

(4) Such Council shall cease to exist one hundred and twenty days after the submission of the final report required by section 302 (e).

(c) For the purpose of ascertaining facts and making recommendations concerning the utilization of skills, experience, and energies, and the improvement of the conditions of individuals with handicaps, the Conference shall bring together individuals with handicaps and members of their families and representatives of Federal, State, and local governments, professional experts, and members of the general public recognized by individuals with handicaps as being knowledgeable about problems affecting their lives.

(d) Participants in the White House Conference, and in conferences and other activities leading up to the White House Conference at the local and State level are authorized to consider all matters related to the purposes of the Conference set forth in subsection (a), but shall give special consideration to recommendations for:

(1) providing education, health, and diagnostic services for all children early in life so that handicapping conditions may be discovered and treated;

(2) assuring that every individual with a handicap receives appropriately designed benefits of the educational system;

(3) assuring that individuals with handicaps have available to them all special services and assistance which will enable them to live their lives as fully and independently as possible;

(4) enabling individuals with handicaps to have access to usable communication services and devices at costs comparable to other members of the population;

(5) assuring that individuals with handicaps will have maximum mobility to participate in all aspects of society, including access to all publicly-assisted transportation services and, when necessary, alternative means of transportation at comparable cost;

(6) improving utilization and adaptation of modern engineering and other technology to ameliorate the impact of handicapping conditions on the lives of individuals and especially on their access to housing and other structures;

(7) assuring individuals with handicaps of equal opportunity with others to engage in gainful employment;

(8) enabling individuals with handicaps to have incomes sufficient for health and for participation in family and community life as self-respecting citizens;

(9) increasing research relating to all aspects of handicapping conditions, stressing the elimination of causes of handicapping conditions and the amelioration of the effects of such conditions;

(10) assuring close attention and assessment of all aspects of diagnosis and evaluation of individuals with handicaps;

(11) assuring review and evaluation of all governmental programs in areas affecting individuals with handicaps, and a close examination of the public role in order to plan for the future;

(12) resolving the special problems of veterans with handicaps;

(13) resolving the problems of public awareness and attitudes that restrict individuals with handicaps from participating in society to their fullest extent;

(14) resolving the special problems of individuals with handicaps who are homebound or institutionalized;

(15) resolving the special problems of individuals with handicaps who have limited English-speaking ability;

(16) allotting funds for basic vocational rehabilitation services under part B of title I of the Rehabilitation Act of 1973 in a fair and equitable manner in consideration of the factors set forth in section 407(a) of such Act; and

(17) promoting other related matters for individuals with handicaps.

(e) A final report of the White House Conference on Handicapped Individuals shall be submitted by the Council to the President not later than one hundred and twenty days following the date on which the conference is called, and the findings and recommendations included therein shall be immediately made available to the public. The Council and the Secretary shall, within ninety days after the submission of such final report, transmit to the President and the Congress their recommendations for administrative action and legislation necessary to implement the recommendations contained in such report.

RESPONSIBILITIES OF COUNCIL AND SECRETARY

SEC. 303. (a) In carrying out the provisions of this title, the Council and the Secretary shall—

(1) request the cooperation and assistance of such other Federal departments and agencies as may be appropriate, including Federal advisory bodies having responsibilities in areas affecting individuals with handicaps;

(2) render all reasonable assistance, including financial assistance, to the States in enabling them to organize and conduct conferences on handicapped individuals prior to the White House Conference on Handicapped Individuals;

(3) prepare and make available necessary background materials for the use of delegates to the White House Conference on Handicapped Individuals;

(4) prepare and distribute such interim reports of the White House Conference on Handicapped Individuals as may be appropriate; and

(5) engage such individuals with handicaps and additional personnel as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 57 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates of pay not to exceed the rate prescribed for GS-18 under section 5332 of such title.

(b) In carrying out the provisions of this title, the Secretary shall employ individuals with handicaps.

DEFINITION

SEC. 304. For the purpose of this title, the term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

STATE PARTICIPATION

SEC. 305. (a) From the sums appropriated pursuant to section 306 the Secretary is authorized to make a grant to each State, upon application of the chief executive thereof, in order to assist in meeting the costs of that State's participation in the Conference program, including the conduct of at least one conference within each such State.

(b) Grants made pursuant to subsection (a) shall be made only with the approval of the Council.

(c) Funds appropriated for the purposes of this subsection shall be apportioned among the States by the Secretary in accordance with their respective needs for assistance under this subsection, except that no State shall be apportioned more than \$25,000 nor less than \$10,000.

AUTHORIZATION OF APPROPRIATIONS

SEC. 306. There are authorized to be appropriated, without fiscal year limitations, \$2,000,000 to carry out the provisions of this title and such additional sums as may be necessary to carry out section 305. Sums so appropriated shall remain available for expenditure until June 30, 1977.

And the Senate agree to the same.

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

In lieu of the matter proposed to be inserted by the amendment of the Senate to the title of the bill, insert the following:

A bill to extend the authorizations of appropriations in the Rehabilitation Act of 1973 for one year, to transfer the Rehabilitation Services Administration to the Office of the Secretary of Health, Education, and Welfare, to make certain technical and clarifying amend-

ments, and for other purposes; to amend the Randolph-Sheppard Act for the blind; to strengthen the program authorized thereunder; and to provide for the convening of a White House Conference on Handicapped Individuals.

And the Senate agree to the same.

CARL D. PERKINS,
JOHN BRADEMAS,
ALBERT H. QUIE,

Managers on the Part of the House.

JENNINGS RANDOLPH,
ALAN CRANSTON,
HARRISON WILLIAMS,
CLAIBORNE PELL,
EDWARD M. KENNEDY,
WALTER F. MONDALE,
W. D. HATHAWAY,
BOB TAFT, Jr.,
DICK SCHWEIKER,
J. GLENN BEALL, Jr.,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14225) to amend and extend the Rehabilitation Act of 1973 for one additional year, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate to the text of the bill with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—AMENDMENTS TO THE REHABILITATION ACT OF 1973

SECTION 101. REHABILITATION SERVICES ADMINISTRATION

Both the House bill and the Senate amendment establish in the Office of the Secretary of Health, Education, and Welfare a Rehabilitation Services Administration (RSA) which shall be headed by a Commissioner, appointed by the President, except that the Senate amendment makes the appointment of the Commissioner subject to the advice and consent of the Senate. The House recedes.

The House bill provides that the Commissioner shall be directly responsible only to the Office of the Secretary of Health, Education, and Welfare. The Senate amendment provides that the Commissioner shall be directly responsible to the Secretary, or the Undersecretary or an appropriate Assistant Secretary of Health, Education, and Welfare, as designated by the Secretary. The House recedes.

The Senate amendment specifies that the Commissioner shall be the principal officer for carrying out titles I through III of the Rehabilitation Act of 1973. The House bill has no comparable provision. The House recedes.

The Senate amendment strikes out existing provisions in section 3(a) of the Rehabilitation Act of 1973, limiting any proposed delegation of authority by requiring the transmission of a plan to the Congress after consultation with the authorizing Committees regarding such plan, and substitutes in lieu thereof a prohibition against the delegation of the Commissioner's functions to any officer not directly

responsible to him both with respect to program operations and administration. The House recedes.

The conferees stress that the clarified language with respect to delegation of functions does not prohibit the centralized administration of certain routine administrative services by the Department of Health, Education, and Welfare in support of RSA functions and programs in the categories of budget formulation, grant administration, financial administration, and personnel administration. However, the conferees intend that the RSA Commissioner is to be responsible for all policy decisions in these four areas and that this policy-making responsibility cannot be delegated beyond persons directly responsible to him, both at headquarters and at regional offices. Where routine administrative functions and policy are intertwined, then the Committee intends that the functions be carried out within RSA, both at headquarters and at regional offices. The conferees have thus agreed to the Senate provision in this regard with full knowledge of its intention and the legislative history surrounding it.

The conferees are in agreement with the following clarifications submitted by HEW as to what are considered to be routine administrative services that can be centralized:

In the area of budget formulation, provision of technical assistance to the RSA budget officer to assure that budget documents conform to applicable O.M.B. and Department instructions in matters of form and timing of submission.

Preparation for RSA approval of testimony for presentation to the pertinent Appropriations subcommittees on the amounts sought for RSA.

In the area of grant administration, the processing of the necessary grant documents required to implement an RSA decision to award a project grant. This involves, among other things assuring that the award complies with the Department's Grants Administration Manual and with opinions of legal counsel respecting grants administration.

The preparation of the documents required to obligate RSA formula grant allotments.

Monitoring of the application of Department regulations governing the determination of amounts chargeable to grant awards and the expenditure of obligated funds under Treasury warrants.

In the area of financial management, assistance to RSA in the administration of accounting systems, and the preparation of documents required to obligate and expend salaries and expenses appropriations required for the operation of RSA.

In the area of personnel management, provision of general personnel management support services. Although RSA is responsible for the selection of persons for employment and promotion within RSA and for such selection and promotion decisions as to Regional Office personnel carrying out responsibilities under the Rehabilitation Act of 1973, the requisite appointment papers may be prepared and approved centrally in headquarters and in the region.

Maintenance of RSA personnel records, advice to RSA employees on personnel matters, and administration of the equal employment opportunity program.

While these are not all the areas, the conferees believe they cover the general area into which routine administrative services fall.

The Senate amendment makes the effective date of the revised section 3(a) sixty days after enactment of the Act, except that the amendment shall not take effect with respect to any individual holding the Office of RSA Commissioner on the date of enactment until such individual ceases to hold such office. The House bill has no comparable provision. The House recedes with an amendment deleting the exception with respect to the applicability of that amendment to the incumbent of the RSA Commissioner's office.

SECTION 102. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL REHABILITATION SERVICES

Both the House bill (\$40 million) and the Senate amendment (\$42 million) authorize appropriations for innovation and expansion grants for FY 1976, and the Senate amendment also authorizes an appropriation (\$45 million) for FY 1977. The conference agreement authorizes an appropriation of \$42 million for FY 1976. With respect to this as well as all the other appropriations authorization extensions, the Senate recedes with respect to authorizations for FY 1977.

Both the House bill and the Senate amendment extend the time during which part C of title I—Innovation and Expansion Grants—funds are available for obligation, the House bill for one year and the Senate amendment for two years. The Senate recedes.

Both the House bill (a minimum of \$1 million and a maximum of \$2.5 million) and the Senate amendment (a minimum of \$1.5 million and a maximum of \$3 million) extend for FY 1976 the earmark out of special projects appropriations under section 304 of the Rehabilitation Act of 1973, and the Senate amendment also extends the same earmarking for FY 1977. The Senate recedes.

SECTION 103. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH AND TRAINING

Both the House bill (\$30 million) and the Senate amendment (\$35 million) authorize appropriations for research for FY 1976, and the Senate amendment also authorizes an appropriation (\$37.5 million) for FY 1977. The conference agreement authorizes an appropriation of \$32 million for research for FY 1976.

Both the House bill (\$30 million) and the Senate amendment (\$35 million) authorize appropriations for training for FY 1976, and the Senate amendment also authorizes an appropriation (\$37.5 million) for FY 1977. The conference agreement authorizes an appropriation of \$32 million for training for FY 1976.

SECTION 104. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR GRANTS FOR CONSTRUCTION OF REHABILITATION FACILITIES

Both the House bill and the Senate amendment authorize an appropriation of such sums as may be necessary for construction grants for FY 1976, and the Senate amendment also authorizes a such sums appropriation for FY 1977. The Senate recedes.

Both the House bill and the Senate amendment extend the time during which construction grant appropriations will remain available for expenditure, the House bill for one year and the Senate amendment for two years. The Senate recedes.

SECTION 105. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL TRAINING SERVICES FOR HANDICAPPED INDIVIDUALS

Both the House bill and the Senate amendment authorize the appropriation of such sums as may be necessary for vocational training services for FY 1976, and the Senate amendment also authorizes a such sums appropriation for FY 1977. The Senate recedes.

SECTION 106. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL PROJECTS AND DEMONSTRATIONS

Both the House bill and the Senate amendment authorize the appropriation of \$20 million for special projects and demonstrations for FY 1976, and the Senate amendment also authorizes an appropriation of \$25 million for FY 1977. The Senate recedes.

SECTION 107. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL CENTER DEAF-BLIND YOUTHS AND ADULTS

Both the House bill and the Senate amendment authorize the appropriation of such sums as may be necessary for the National Center for Deaf-Blind Youths and Adults for FY 1976, and the Senate amendment also authorizes a such sums appropriation for FY 1977. The Senate recedes.

SECTION 108. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM AND PROJECT EVALUATION

Both the House bill and the Senate amendment authorize the appropriation of such sums as may be necessary for program and project evaluation for FY 1976, and the Senate amendment also authorizes a such sums appropriation for FY 1977. The Senate recedes.

SECTION 109. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SECRETARIAL RESPONSIBILITIES (OFFICE FOR HANDICAPPED INDIVIDUALS)

Both the House bill (\$500,000) and the Senate amendment (\$700,000) authorize appropriations for carrying out special Secretarial responsibilities (Office for Handicapped Individuals) for FY 1976, and the Senate amendment also authorizes the appropriation of \$1 million for FY 1977. The conference agreement authorizes an appropriation of \$600,000 for Secretarial responsibilities for FY 1976.

SECTION 110. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Both the House bill (\$1 million) and the Senate amendment (\$1.5 million) authorize appropriations for the Architectural and Transportation Barriers Compliance Board for FY 1976, and the Senate

amendment also authorizes an appropriation of \$2 million for FY 1977. The conference agreement authorizes an appropriation of \$1.5 million for FY 1976.

SECTION 111. MISCELLANEOUS AMENDMENTS

Definition of "handicapped individuals"

The Senate amendment adds to section 7(6) of the Rehabilitation Act of 1973 the following new definition of "handicapped individual" for the purposes of titles IV and V of that Act: "Any person who (A) has a physical or mental impairment which substantially limits such person's functioning or one or more such person's major life activities, (B) has a record of such an impairment, or (C) is regarded as having such an impairment." The House bill has no comparable provision. The House recedes with an amendment deleting from clause (A) the language "such person's functioning or" as redundant.

Section 7(6) of the Rehabilitation Act of 1973 defines "handicapped individual." That definition has proven to be troublesome in its application to provisions of the Act such as sections 503 and 504 because of its orientation toward employment and its relation to vocational rehabilitation services. It was clearly the intent of the Congress in adopting section 503 (affirmative action) and section 504 (nondiscrimination) that the term "handicapped individual" in those sections was not to be narrowly limited to employment (in the case of section 504), nor to the individual's potential benefit from vocational rehabilitation services under titles I and III (in the case of both sections 503 and 504) of the Act.

Thus, it was not intended that an employer-government contractor should condition its hiring of handicapped individuals under an affirmative action plan on such individuals' having benefited, or having a reasonable expectation of benefiting, from vocational rehabilitation services. Similarly, a test of discrimination against a handicapped individual under section 504 should not be couched either in terms of whether such individual's disability is a handicap to employment, or whether such individual can reasonably be expected to benefit, in terms of employment, from vocational rehabilitation services. Such a test is irrelevant to the many forms of potential discrimination covered by section 504.

Section 504 was enacted to prevent discrimination against all handicapped individuals, regardless of their need for, or ability to benefit from, vocational rehabilitation services, in relation to Federal assistance in employment, housing, transportation, education, health services, or any other Federally-aided programs. Examples of handicapped individuals who may suffer discrimination in the receipt of Federally-assisted services but who may have been unintentionally excluded from the protection of section 504 by the references to enhanced employability in section 7(6) are as follows: physically or mentally handicapped children who may be denied admission to Federally-supported school systems on the basis of their handicap; handicapped persons who may be denied admission to Federally-assisted nursing homes on the basis of their handicap; those persons whose handicap is so severe that employment is not feasible but who may be

denied the benefits of a wide range of Federal programs; and those persons whose vocational rehabilitation is complete but who may nevertheless be discriminated against in certain Federally-assisted activities.

In order to embody this underlying intent, section 101(a) of the Conference agreement adds the new definition of "handicapped individual" for the purposes of titles IV and V of the Act. The amended definition eliminates any reference to employment and takes cognizance of the fact that handicapped persons are discriminated against in a number of ways. First, they are discriminated against when they are, in fact, handicapped (this is similar to discrimination because of race and sex). Second, they are discriminated against because they are classified or labeled, correctly or incorrectly, as handicapped (this has no direct parallel in either race or sex discrimination, although racial and ethnic factors may contribute to misclassification as mentally retarded). Third, they are discriminated against if they are regarded as handicapped, regardless of whether they are in fact handicapped (this has a parallel in race discrimination where a person is regarded as being of a minority group even though, in fact, he is not).

Clause (A) in the new definition eliminates any reference to employment and makes the definition applicable to the provision of Federally-assisted services and programs. Clause (B) is intended to make clearer that the coverage of sections 503 and 504 extends to persons who have recovered—in whole or in part—from a handicapping condition, such as a mental or neurological illness, a heart attack, or cancer and to persons who were classified as handicapped (for example, as mentally ill or mentally retarded), but who may be discriminated against or otherwise be in need of the protection of sections 503 and 504.

Clause (C) in the new definition clarifies the intention to include those persons who are discriminated against on the basis of handicap, whether or not they are in fact handicapped, just as title VI of the Civil Rights Act of 1964 prohibits discrimination on the ground of race, whether or not the person discriminated against is in fact a member of a racial minority. This subsection includes within the protection of sections 503 and 504 those persons who do not in fact have the condition which they are perceived as having, as well as those persons whose mental or physical condition does not substantially limit their life activities and who thus are not technically within clause (A) in the new definition. Members of both of these groups may be subjected to discrimination on the basis of their being regarded as handicapped.

The new definition applies to section 503, as well as to section 504, in order to avoid limiting the affirmative action obligation of a Federal contractor to only that class of persons who are eligible for vocational rehabilitation services. It should be noted, however, that the affirmative action obligation cannot be fulfilled by the expediency of hiring or limiting services to persons marginally or previously handicapped or persons "regarded as" handicapped. Rather, an acceptable affirmative action program must be aimed at the entire class of employable handicapped persons, with particular attention to those who are presently, actually, and significantly handicapped. This standard

parallels the obligation of a Federal contractor under Executive Order No. 11246 to employ persons who might be discriminated against on the basis of national origin: the obligation extends to all ethnic groups within the available applicant pool and cannot be fulfilled selectively by hiring persons from only one ethnic group. Where applicable, section 504 is intended to include a requirement of affirmative action as well as a prohibition against discrimination.

It should also be noted that, although the "employability"—confining context of the present Rehabilitation Act section 7(b) definition of "handicapped individual" is removed from the new definition as to section 503 as well as the use of the term elsewhere in titles IV and V, section 503 itself relates solely to employment and thus the adjective "qualified" in modification of "handicapped individual" in that section clearly requires that the "employability" of the handicapped individual in question is a prerequisite to section 503 application.

Section 504 was patterned after, and is almost identical to, the anti-discrimination language of section 601 of the Civil Rights Act of 1964, 42 U.S.C. 2000d-1 (relating to race, color, or national origin), and section 901 of the Education Amendments of 1972, 42 U.S.C. 1683 (relating to sex). The section therefore constitutes the establishment of a broad government policy that programs receiving Federal financial assistance shall be operated without discrimination on the basis of handicap. It does not specifically require the issuance of regulations or expressly provide for enforcement procedures, but it is clearly mandatory in form, and such regulations and enforcement are intended.

The language of section 504, in following the above-cited Acts, further envisions the implementation of a compliance program which is similar to those Acts, including promulgation of regulations providing for investigation and review of recipients of Federal financial assistance, attempts to bring non-complying recipients into voluntary compliance through informal efforts such as negotiation, and the imposition of sanctions against recipients who continue to discriminate against otherwise qualified handicapped persons on the basis of handicap. Such sanctions would include, where appropriate, the termination of Federal financial assistance to the recipient or other means otherwise authorized by law. Implementation of section 504 would also include pre-grant analysis of recipients to ensure that Federal funds are not initially provided to those who discriminate against handicapped individuals. Such analysis would include pre-grant review procedures and a requirement for assurances of compliance with section 504. This approach to implementation of section 504, which closely follows the models of the above-cited anti-discrimination provisions, would ensure administrative due process (right to hearing, right to review), provide for administrative consistency within the Federal government as well as relative ease of implementation, and permit a judicial remedy through a private action.

It is intended that sections 503 and 504 be administered in such a manner that a consistent, uniform, and effective Federal approach to discrimination against handicapped persons would result. Thus, Federal agencies and departments should cooperate in developing standards and policies so that there is a uniform, consistent Federal

approach to these sections. The Secretary of the Department of Health, Education, and Welfare, because of that Department's experience in dealing with handicapped persons and with the elimination of discrimination in other areas, should assume responsibility for coordinating the section 504 enforcement effort and for establishing a coordinating mechanism with the Secretary of the Department of Labor to ensure a consistent approach to the implementation of sections 503 and 504. The conferees fully expect that H.E.W.'s section 504 regulations should be completed by the close of this year. Delay beyond this point would be most unfortunate since the Act (P.L. 92-112) was enacted over one year ago—September 26, 1973.

The conferees note that Executive Order No. 11758, section 2, delegates to the Secretary of Labor the responsibility for carrying out the responsibilities embodied in section 503 of the Rehabilitation Act of 1973, and urge a similar delegation of responsibility to the Secretary of HEW to carry out on a Government-wide basis those responsibilities embodied in section 504.

Affirmative action in employment under State vocational rehabilitation plans

The Senate amendment requires each State agency and each facility in receipt of Rehabilitation Act title I funds take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions as set forth in section 503 of the Rehabilitation Act of 1973 dealing with employment under Federal contracts and subcontracts. The House bill has no comparable provision. The House recedes.

Requirements for early eligibility determination; individualized written rehabilitation program

The Senate amendment requires:

(1) that each State agency must (in addition to keeping records of the characteristics of applicants who are determined not to be eligible for vocational rehabilitation services, under title I, including the reasons for such determinations), keep such records in sufficient detail to enable the Secretary to analyze and evaluate annually the reasons for such determinations and the numbers of individuals determined to be ineligible;

(2) that the State agency report semi-annually to the Secretary on these determinations categorizing them and analyzing the reasons for them;

(3) that the State agency annually review these ineligibility determinations on an individual basis in exactly the same manner as it would review an ineligibility determination of an individual after the process of evaluation or extended evaluation had begun and an individualized written rehabilitation program had been prepared (so that any change which had occurred in the individual's capacities and the degree of disability would be reevaluated periodically with a view toward giving that individual the benefit of the doubt with respect to the potential for a vocational goal, as required by section 102(c));

(4) that the State agency's continuing State-wide studies of the needs of handicapped individuals include a review of the efficacy of the criteria used with respect to such ineligibility determinations;

(5) that such ineligibility determinations be made jointly by the vocational rehabilitation counsellor and the handicapped individual;

(6) that an individual who has been so determined to be ineligible shall be advised of all rights and remedies, such as appeal rights and the availability of a client assistance project—where there is one—which are available to such individual; and

(7) that any ineligibility determination made prior to the beginning of evaluation or extended evaluation be made (as with a later determination after the individualized written rehabilitation program has been developed) only after a full attempt has been made to develop a vocational goal for that individual and only upon certification by the counsellor (which certification would include a specification of reasons for the ineligibility determination) that the individual is not capable, beyond a reasonable doubt of achieving a vocational goal at that time.

The House bill has no comparable provision. The House recedes with amendments providing that the State agency review required in item (2) above shall be carried out on at least an annual basis rather than on a semi-annual basis; providing that the State agency review of each ineligibility determination, as required in item (3) above, shall take place not later than twelve months after each such determination rather than annually; and making a conforming change in section 112(c)(3) of the Act so that annual review of an ineligibility determination under that provision is required only as to such determinations made as part of (and as an amendment to) an individualized written rehabilitation program.

The conferences wish to stress that the requirements set forth in item (2) above that the State at least annually categorize and analyze the reasons and the numbers of ineligibility determinations does not impose an obligation for annual review of individual cases but rather only a requirement for statistical categorization and analyses. The requirement with respect to reviews of individual cases in which ineligibility determinations have been made is set forth under item (3) above as modified by the conference agreement to require that the review occur at only one point, not later than twelve months after such an as to each ineligibility determination not made as a part of the individual written rehabilitation program process. The purpose of the State agency, as well as Secretarial, analysis of the reasons for such ineligibility determinations is to develop information on the kinds and duration of handicapping conditions most frequently leading to ineligibility determinations, the socio-economic backgrounds of the individuals found so ineligible, and other information that might provide useful insight into the pattern of the decision-making process with respect to such ineligibility determinations in each State. The conferees also expect that such analysis would develop information indicating where State training and dissemination of information is necessary in order to avoid decisions made according to stereotypes of handicaps or on the basis of particular characteristics not necessarily relevant to an individual's potential for developing a vocational goal.

Client assistance funding earmark

The Senate amendment eliminates as to FYs 1975, 1976, and 1977 funding of client assistance projects, the conditional nature of the

earmark of funds for client assistance projects—that such earmarking takes effect only with respect to amounts equal to the amount of obligations for carrying out special projects and demonstrations under the superceded Vocational Rehabilitation Act from FY 1973 appropriations under that Act. The House bill contains no comparable provision. The House recedes with an amendment which substitutes the specific figure of \$11,860,000 for the reference to the FY 1973 level of obligations for special projects and demonstrations under the Vocational Rehabilitation Act, as the amount which must be appropriated in FY 1976 before the client assistance earmark (of \$1 million minimum and \$2.5 million maximum) applies, and provides authority to the Secretary to fund section 112 client assistance projects in the event that the amount appropriated under section 304 in FY 1976 is not in excess of \$11,860,000.

The conferees wish to stress their very strong intention that at least the present level of funding will be maintained for the special projects and demonstrations authorized in section 304. The conferees further intend that continuation of funding for the developmental disabilities projects under any newly created statutory authority should be carried out under a separate appropriation for that purpose. In no event do the conferees intend that there be any diminution in funding of special projects and demonstrations under the Rehabilitation Act of 1973.

With respect to client assistance funding, the conferees intend that the Secretary exercise the new sub-\$11,860,000 funding authority as follows: First, providing continuation of funding for special projects and demonstrations funded in FY 1975—such as new careers, industry projects, and technical assistance—and such vocational rehabilitation developmental disabilities special projects meeting the requirements of the Act which continue to be carried out under the section 304 authority; and next, providing funding to client assistance projects at at least the level at which they are funded in FY 1975.

Comprehensive Service Needs Special Study reporting date

The House bill extends the reporting date for the Rehabilitation Act section 130 Comprehensive Service Needs Special Study from February 1, 1975 to June 30, 1975. The Senate amendment extends that reporting date to September 30, 1975. The Senate recedes.

The conferees agree and intend that new research and demonstration projects shall be included in the Comprehensive Service Needs Special Study to test the feasibility of methods designed to prepare individuals with the most severe handicaps for entry into programs under the Act and to assist individuals who cannot reasonably be expected to be rehabilitated for employment to live independently and function normally within their family and community.

In the Joint Explanatory Statement accompanying the conference report on H.R. 8070, the Rehabilitation Act of 1973 (P.L. 93-112), it is stated that the Senate receded to a House amendment which *required* the Commissioner to include research and demonstration projects, whereas the Senate amendment would only have provided that the study *may* include such projects. This makes clear, the conferees believe, that it was the intent of the conferees on H.R. 8070 that the Special Study include new demonstration projects; to the extent

that there are demonstration projects underway that are consistent with the objectives of the study, it was the intent of the Congress that such projects be utilized in the findings of the study. Certainly, it was never contemplated that ongoing projects could be used as a substitute for carrying out the new projects required by the law.

The purpose of including new demonstration projects in the Special Study is so that new programs and new approaches to assisting individuals with the most severe handicaps may be tested and reported on to Congress. The conferees believe that new demonstration projects are an integral part of the Special Study and should be conducted in close cooperation with, the contractor responsible for the study itself.

The conferees agree with the Administration's view that two or three years is usually required for successful completion of demonstration projects. However, by the June 30, 1975, Special Study reporting date, the conferees direct that these new projects be well underway and that preliminary findings based on them be included in that report along with the plan and timetable for completion of such projects. The conferees further direct that RSA submit detailed interim reports to the Congress on the progress of the new demonstration projects on July 1, 1976, and July 1, 1977, and a final report prior to July 1, 1978. These reports are in addition to the report due, under the conference agreement, on June 30, 1975.

The Administration's present proposal to fund such new demonstration projects in fiscal year 1975 at between \$250,000 and \$300,000 is well below the \$1 million amount earmarked in the law and is totally inadequate for meeting the purposes of designing, initiating, and carrying out the required demonstration projects.

The conferees therefore direct RSA to comply with the law and fund these projects at the level provided in the law—\$1 million each for FYs 1975 and 1976.

Finally, in designing these new special projects, the conferees direct that RSA consult with representatives of State vocational rehabilitation agencies and carry out part of these demonstrations through State agencies.

Research demonstrations of architectural and engineering designs to meet handicapped individuals' special needs

The Senate amendment adds to the list of activities for which Rehabilitation Act section 202 research grants and contracts are authorized, "demonstrations" (presently only studies and analyses) of architectural and engineering designs adapted to meet the special needs of handicapped individuals. The House bill has no comparable provision. The House recedes.

Special projects demonstrating methods of making recreational activities accessible to handicapped individuals

The Senate amendment adds to the Rehabilitation Act section 304(b) special project and demonstration grant authority, a new authority to support operating programs (including renovation and construction) to demonstrate methods of making recreational activities fully accessible to handicapped individuals. The House bill contains no comparable provision. The House recedes.

Technical amendments to correct oversights in Rehabilitation Act language

The Senate amendment makes amendments to add a missing word "for" to section 304(b)(2) and a missing "who" to section 304(c) of the Rehabilitation Act of 1973. The House bill contains no comparable provisions. The House recedes.

Architectural Barriers Board concurrence in technical assistance projects

The Senate amendment requires that technical assistance now authorized to be provided by the Secretary to rehabilitation facilities and for the purpose of removal of architectural and transportation barriers, be provided only with the concurrence of the Architectural and Transportation Barriers Compliance Board. The House bill has no comparable provision. The House recedes.

Date of submission of long-range projection for provision of comprehensive services to handicapped individuals

The Senate amendment extends from March 26, 1975, to July 1, 1975, the date by which the Secretary must submit to the Congress the long-range projection for the provision of comprehensive services to handicapped individuals and for programs of research, evaluation, and training related to such services and individuals, as required by section 405(a)(1) of the Rehabilitation Act of 1973. The House bill contains no comparable provision. The Senate recedes, in view of the fact that the Department of Health, Education, and Welfare has not requested a delayed reporting date for this provision, as was the case with respect to the Comprehensive Needs Special Study.

Delegation of Secretarial responsibilities (Office for Handicapped Individuals)

The Senate amendment amends section 405(c) of the Rehabilitation Act of 1973, prohibiting the delegation of section 405 Secretarial functions to any person not assigned to or operating in the Office of the Secretary (except that the Secretary may establish an Office for the Handicapped in the office of an appropriate Assistant Secretary), by providing that these section 405 functions shall be carried out only by individuals operating in the immediate Office of the Secretary, or the Undersecretary of Health, Education, and Welfare (and not in the office of an Assistant Secretary) and that such functions include the establishment and operation of an Office for Handicapped Individuals to carry out the section 405 responsibilities of the Secretary. The House bill contains no comparable provision. The House recedes with an amendment which leaves intact the present sentence in section 405(c) of the Rehabilitation Act of 1973 (except that the name of the "Office for the Handicapped" is changed to "Office for Handicapped Individuals"), and provides that in no event shall any Secretarial functions under section 405 be further delegated to any persons with operational responsibilities for carrying out programs designed to benefit handicapped individuals, including any program under any other section of the Rehabilitation Act of 1973.

The Senate amendment was designed, in view of other amendments adopted to transfer the Rehabilitation Services Administration to the Office of the Secretary, to assure consistency with the intent of existing law that no operating program shall report to or through such person or support staff carrying out the responsibilities assigned to the Secretary in section 405.

The conferees are dissatisfied with action taken to date to implement the Secretarial responsibilities provisions of section 405 and to hire necessary staff to carry out these responsibilities. The conferees direct the Secretary to take expeditious actions to hire the necessary staff and assure that the March 26, 1975, long-range-projection reporting date is met.

Architectural and Transportation Barriers Compliance Board authority

The Senate amendment makes the following amendments in the authorities respecting the Architectural and Transportation Barriers Compliance Board in section 502 of the Rehabilitation Act of 1973:

(1) adds the Department of Defense as a statutory member of the Board;

(2) provides that the Secretary of Health, Education, and Welfare shall be the Chairman of the Board and that the Board shall appoint, upon recommendation of the Secretary, a Consumer Advisory Panel, consisting of a majority of handicapped individuals, to provide guidance, advice, and recommendations to the Board in carrying out its functions;

(3) clarifies the authority of the Board to make grants and contracts to carry out its functions;

(4) gives the Board effective compliance authority with respect to its responsibility in subsection (b) to insure compliance with the standards prescribed under Public Laws 90-480 and 91-205, by providing that compliance orders of the Board shall be final and binding on the Department, agency, or instrumentality involved and may include the withholding or suspension of Federal funds with respect to any building found not to be in compliance with these standards;

(5) specifies that there shall be an executive director of the Board, appointed by the Board, and such other professional and clerical personnel, also appointed by the Board, as are necessary to carry out the Board's functions; and

(6) changes to September 30, 1975, the final reporting date on transportation and housing.

The House bill contains no comparable provision. The House recedes.

TITLE II—RANDOLPH-SHEPPARD ACT AMENDMENTS

SECTION 200. SHORT TITLE

The Senate amendment provides that title II may be cited as the "Randolph-Sheppard Act Amendments of 1974." The House bill contains no comparable provision. The House recedes.

SECTION 201. FINDINGS

The Senate amendment lists a number of findings of Congress relating to the deficiencies in the blind vendor program. The House bill contains no comparable provision. The House recedes.

SECTION 202. VENDING FACILITY OPERATIONS

The Senate amendment gives a priority to blind vendors in operating facilities on Federal property, requires regulations to protect the priority and to assure the location, where feasible, of vending facilities on all Federal property. The House bill contains no comparable provision. The House recedes with an amendment.

The conferees have eliminated from proposed section 1(b)(2) of the Act (section 202 of the Senate amendment) the clause "including, to the maximum extent feasible, vending facilities in the areas where employees work,".

The purpose of this change is to remove the emphasis on placing blind vendors in employee work areas. It is not the intention of the conferees to wholly preclude the placement of a blind vendor in such areas.

The conferees take note of the fact that blind vendors do currently operate in swing rooms, adjacent to the workroom floor, and near employee entrances. Factors governing the placement of blind vendors on any Federal property will, of course, apply in such cases; that is, the building population and potential income for the blind vendor must be considered.

SECTION 203. FEDERAL AND STATE RESPONSIBILITIES

The Senate amendment amends section 2 of the Randolph-Sheppard Act to create greater uniformity in the operation of the program, eliminate archaic language, and require new or renovated buildings owned or occupied by Federal entities to include satisfactory sites for blind vending facilities. The House bill contains no comparable provision. The House recedes with amendments.

The conferees have modified section 203(d) of the Senate amendment (proposed section 2(d)(1) of the Act) to require that the Secretary of Health, Education, and Welfare consult with the head of the appropriate Federal department, agency, or instrumentality prior to his determination that a building contains, or does not contain, a satisfactory site or sites for a blind vending facility. The purpose of this proposed change is to assure that each agency will have early access to the Secretary of HEW to give each such agency an adequate opportunity to present its views and desires with respect to the selection of sites for blind vending facilities. In this way the position of the agency, the State licensing agency, and the Secretary, will be clearly established, and accommodations can be made in conformance with the intent of the Act.

The conferees have changed certain dates in the Senate amendment in order to permit the implementation of portions of title II on a more realistic schedule. Thus, in section 203(d) (proposed section 2(d)(1) of the Act), and in section 206 (proposed section 7(b)(1) of the Act),

the dates for requiring site selection determinations for new, newly occupied, or renovated buildings, and for allocating vending machine income, respectively, are changed from September 30, 1974 to January 1, 1975.

SECTION 204. STATE AGENCIES AND ARBITRATION

The Senate amendment amends section 3 of the Randolph-Sheppard Act to provide that set-aside funds be used for health, sick leave and vacation, and retirement contributions, and to require State agencies to submit to arbitration of grievances. The House bill contains no comparable provision. The House recedes.

SECTION 205. REPEALS

The Senate amendment repeals sections 4 and 7 of the Randolph-Sheppard Act which, respectively, authorizes the Secretary to cooperate with State Rehabilitation Boards, and outlines State agency procedures in conjunction with the Vocational Rehabilitation Act. The House bill contains no comparable provisions. Both provisions are unnecessary and anachronistic. The House recedes.

SECTION 206. ARBITRATION; VENDING MACHINE INCOME; PERSONNEL; TRAINING

The Senate amendment creates four new sections of the Randolph-Sheppard Act. Sections 5 and 6 establish an arbitration and judicial review mechanism for blind vendors and State agencies. Section 7 assigns vending machine income on Federal property to blind vendors and State licensing agencies under a formula based on whether machines are in direct competition with a blind vendor, sets forth requirements for use of such income, excludes certain locations, and sets conditions on cafeteria operations. Section 8 requires effective training programs, upward mobility, and follow-along programs for blind individuals. The House bill contains no comparable provisions. The House recedes with amendments.

The conferees have modified the definition of "direct competition" under proposed section 7(b)(1) of the Act (section 206 of the Senate amendment) to exclude from that definition vending machines or facilities operated in areas serving employees the majority of whom normally do not have direct access to the blind vending facility. The conferees expressly intend that vending machines in cafeterias on Federal property, and any machines the income from which is used by such cafeterias, are subject to the same criteria for assignment of income under proposed section 7(a) and (b)(1) of the Act as are any other vending machines. The words "normally" and "direct" have been added to make clear that the existence of infrequent or unusual access to a blind vending facility by employees would not operate to place vending machines serving such employees in direct competition with a blind vending facility for purposes of section 7(b)(1).

The conferees have eliminated the first two sentences of proposed section 7(b)(2) of the Act in section 206 of the Senate amendment. The first sentence requires the Secretary of Health, Education, and

Welfare to determine, after considering the views of the appropriate department head and affected groups or organizations, the purposes for which vending machine income remaining after assignment pursuant to subsections (a) and (b) (1) may be used. The second sentence requires that all income from new or replacement vending machines on Federal property accrue as specified in subsection (a).

The conferees have increased the minimum percentage of vending machine income accruable to blind vendors and State licensing agencies under proposed section 7(b) (1) of the Act (in section 206 of the Senate amendment) from 25 per centum to 30 per centum. This minimum percentage applies with respect to vending machine income derived from machines not in direct competition with a blind vendor, where more than 50 per centum of the total hours worked occurs during periods other than normal working hours.

The conferees have amended proposed section 7(e) of the Act (in section 206 of the Senate amendment) to require the Secretary to establish a priority for the operation of a cafeteria by a blind licensee when he determines after consultation with the installation head, that such operation can be provided at a reasonable cost with high quality food comparable to that currently provided employees. This proposed change has been made in order to put to rest any fears expressed by Federal agencies or employees that a blind-operated cafeteria might somehow result in unreasonably higher food prices and lower quality food. Additional safeguards are set forth in the new language to eliminate any likelihood that such might occur.

SECTION 207. DEFINITIONS

The Senate amendment amends the definition section of the Randolph-Sheppard Act. The House bill contains no comparable provision. The House recedes with an amendment. The Conferees included a parenthetical to clarify that vending machine income, where machines are owned and operated within the Federal entity and not by a commercial vending concern, includes receipts after cost of goods sold, including reasonable service and maintenance costs.

SECTION 208. PERSONNEL

The Senate amendment requires the assignment of ten personnel and authorizes a position in GS-16 to 18. The House bill contains no comparable provision. The House recedes.

SECTION 209. ADDITIONAL STATE RESPONSIBILITIES

The Senate amendment requires each State licensing agency to take certain actions to benefit blind licensees. The House bill contains no comparable provision. The House recedes.

SECTION 210. STANDARDS, STUDIES, AND REPORTS

The Senate amendment requires studies and evaluations of national standards for set-aside funds; feasibility of a centrally administered retirement and health system for blind vendors; method of assigning

vending machine income; and reports on implementation of amendments to the Act. The House bill contains no comparable provision. The House recedes.

SECTION 211. AUDIT

The Senate amendment authorizes the Comptroller General to audit all nonappropriated fund activities which have vending machine income. The House bill contains no comparable provision. The House recedes.

TITLE III—WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

SECTION 301. FINDINGS AND POLICY

The Senate amendment makes seven findings of fact leading up to a policy determination by the Congress that the Federal Government work jointly with the States and their citizens to develop recommendations and plans for action and solving the multi-fold problems facing individuals with handicaps. The House bill contains no comparable provision. The House recedes.

SECTION 302. AUTHORITY OF PRESIDENT, COUNCIL, AND SECRETARY

The Senate amendment authorizes the President to call a White House Conference on Handicapped Individuals within two years from the date of enactment of the title in order to stimulate a national assessment of problems facing individuals with handicaps and to develop recommendations to solve such problems. The House bill contains no comparable provision. The House recedes.

It is the intent of the conferees that implicit in the authority to convene the White House Conference is the authority on the part of the Council to provide, in advance or by way of reimbursement, for the travel expenses (including per diem in lieu of subsistence) for participants in the White House Conference who are not themselves Federal employees.

The Senate amendment establishes a National Planning and Advisory Council (composed of 28 persons, of whom 10 shall be individuals with handicaps, appointed to be representative of all individuals with handicaps, and 5 should be parents of individuals with handicaps, appointed to be representative of all such parents and individuals) for the Conference, to be appointed by the Secretary of Health, Education, and Welfare, to plan and conduct a conference; directs the Conference to bring together individuals with handicaps and their families, representatives from Federal, State, and local governments; and representatives of professional experts and of members of the general public who are recognized by individuals with handicaps as being knowledgeable about problems affecting their lives; and directs the conference to consider all related matters affecting the lives of handicapped individuals, specifically directing that consideration be given to various specific areas.

The House bill contains no comparable provision. The House recedes with amendments (1) adding to the specific areas to be considered.

the allotment of funds for basic vocational rehabilitation services under part B of title I of the Rehabilitation Act of 1973 in a fair and equitable manner in consideration of the factors set forth in section 407(a) of the Rehabilitation Act of 1973 regarding the scope of the State allocation study provided for in such section (specifically: the needs of individuals requiring vocational rehabilitation services; the financial capacity of the States to furnish vocational rehabilitation assistance, including (on a State-by-State basis) per capita income, per capita costs of services rendered, State tax rates, and the ability and willingness of a State to provide the non-Federal share of the costs of rendering such services; and the continuing demand upon the States to furnish vocational rehabilitation services (together with a consideration of the factor that no State shall receive less Federal financial assistance under such part than it received under section 2 of the Vocational Rehabilitation Act in the fiscal year immediately prior to the Rehabilitation Act of 1973)); (2) providing that employees of the planning Council shall not be paid in excess of the rate provided for GS-18 under the Civil Service Schedule; and (3) deleting any authority for the Council to pay any travel expenses for officers or employees of Federal departments, agencies, or instrumentalities.

The conferees intend that agencies, groups, and organizations receiving Federal assistance should generally not receive funds to cover the travel expenses (including per diem in lieu of subsistence) of their personnel participating in the White House conference, but rather should use non-White House Conference funds to defray these expenses. However, the conferees also recognize that exceptions to this general rule will be necessary for groups and organizations (such as consumer groups) which do not have the means to cover these expenses. Although the authority for the Council to pay any travel expenses for Federal employees has been deleted, the conferees note that it is their expectation that the Federal agency, department, or instrumentality concerned would cover such expenses for its officers and employees participating in the White House Conference or State conferences.

It is also the intention of the conferees that the Department of Health, Education, and Welfare will make all possible attempts to employ individuals with handicaps to carry out the provisions of this title, and that thereafter priority consideration by the Federal Government will be given to hiring, on a permanent basis, those individuals employed for this purpose who have demonstrated their merit and qualifications in the course of preparing for and carrying out White House Conference activities.

The conferees further intend that full use will be made of other available funds for Conference purposes, and that priority in expenditure of funds available for Conference activities will be given to pay the expenses of individuals with handicaps who will not otherwise be able to attend the Conference, and to provide such necessary support services as may assist such individuals in attending and participating fully in the Conference, (including brailled materials and readers for

blind individuals, interpreters and printed materials for deaf individuals, attendants for motor-impaired and physically handicapped individuals, and all such necessary equipment and adapted transportation services).

The Senate amendment provides that a final report be submitted to the President and the public by the Council and the Secretary not later than 120 days following the date on which the Conference is convened, and that recommendations for action by the Council and the Secretary of Health, Education, and Welfare be submitted to the President and Congress not later than 90 days after submission of the final report of the Conference. The House bill contains no comparable provision. The House recedes.

SECTION 303. RESPONSIBILITY OF COUNCIL AND SECRETARY

The Senate amendment directs the Council and the Secretary to request the cooperation and assistance of other appropriate Federal departments and agencies (including details and assignments of personnel from Federal agencies for whatever periods of time necessary), render financial and other assistance to the States to conduct conferences prior to the initial White House Conference, prepare and make available necessary materials to the White House Conference delegates, prepare and distribute interim reports, engage necessary individuals with handicaps and additional personnel, and employ individuals with handicaps in carrying out these functions under the provisions of the title. The House bill contains no comparable provision. The House recedes.

SECTION 305. STATE PARTICIPATION

The Senate amendment provides for grants to States to conduct at least one Conference within each State leading up to the White House Conference and provides that no State shall be apportioned more than \$75,000 nor less than \$25,000 for such purpose and for meeting the costs of such State's participation in the Conference program. The House bill contains no comparable provision. The House recedes with an amendment reducing the State allotment minimum to \$10,000 and the maximum to \$25,000.

SECTION 306. AUTHORIZATION OF APPROPRIATIONS

The Senate amendment authorizes the appropriation of such sums as may be necessary to carry out the provisions of the title, and provides that sums so appropriated shall remain available for expenditure until June 30, 1977. The House bill contains no comparable provision. The conference agreement authorizes the appropriation of \$2 million to carry out the provisions of the title and in addition authorizes the appropriation of such sums as may be necessary to carry out the State participation functions under section 305; and provides that sums appropriated for either of these purposes shall remain available for expenditure until June 30, 1977.

TITLE AMENDMENT

The Senate amendment amended the title of the House bill to reflect the provisions of the Senate bill. The conference agreement amends the title of the bill to reflect the provisions of the conference agreement.

CARL D. PERKINS,
JOHN BRADEMAS,
ALBERT H. QUIE,

Managers on the Part of the House.

JENNINGS RANDOLPH,
ALAN CRANSTON,
HARRISON WILLIAMS,
CLAIBORNE PELL,
EDWARD M. KENNEDY,
WALTER F. MONDALE,
W. D. HATHAWAY,
BOB TAFT, JR.,
DICK SCHWEIKER,
J. GLENN BEALL, JR.,

Managers on the Part of the Senate.

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REHABILITATION ACT AMENDMENTS OF 1974

OCTOBER 9, 1974.—Ordered to be printed

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

CONFERENCE REPORT

[To accompany H.R. 14225]



The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14225) to amend and extend the Rehabilitation Act of 1973 for 1 additional year, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

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

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

Sec. 100. This title shall be known as the "Rehabilitation Act Amendments of 1974".

REHABILITATION SERVICES ADMINISTRATION

Sec. 101. (a) Section 3(a) of the Rehabilitation Act of 1973 is amended to read as follows:

"(a) There is established in the Office of the Secretary a Rehabilitation Services Administration which shall be headed by a Commissioner (hereinafter in this Act referred to as the 'Commissioner') appointed by the President by and with the advice and consent of the Senate. Except for titles IV and V and as otherwise specifically provided in this Act, such Administration shall be the principal agency, and the Commissioner shall be the principal officer, of such Department for carrying out this Act. In the performance of his functions, the Commissioner shall be directly responsible to the Secretary or to the Under Secretary or an appropriate Assistant Secretary of such Department, as designated by the Secretary. The functions of the Commissioner shall not be delegated to any officer not directly responsible, both with respect to program operation and administration, to the Commissioner."

(b) The amendment made by subsection (a) of this section shall be effective sixty days after the date of enactment of this Act.

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL
REHABILITATION SERVICES

SEC. 102. (a) Section 100(b) of such Act is amended by—

(1) striking out "and" after "1974," in paragraph (1) and inserting before the period at the end of such paragraph a comma and "and \$720,000,000 for the fiscal year ending June 30, 1976"; and

(2) striking out "and" after "1974," in the first sentence of paragraph (2) and inserting after "1975," in such sentence "and \$42,000,000 for the fiscal year ending June 30, 1976";

(b) Section 112(a) of such Act is amended by striking out "and" after "1974," and by inserting "and up to \$2,500,000 but no less than \$1,000,000 for the fiscal year ending June 30, 1976," after "1975,"

(c) Section 121(b) of such Act is amended by striking out "1976" and inserting in lieu thereof "1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH
AND TRAINING

SEC. 103. Section 201(a) of such Act is amended by—

(1) striking out "and" after "1974," in the first sentence of paragraph (1) and inserting after "1975" in such sentence a comma and "and \$32,000,000 for the fiscal year ending June 30, 1976";

(2) striking out the comma after "20 per centum" in the second sentence of paragraph (1) and inserting after "respectively," in such sentence "and 25 per centum of the amounts appropriated in each succeeding fiscal year"; and

(3) striking out "there is authorized to be appropriated" in paragraph (2) and inserting after "1975" in such paragraph a comma and "and \$32,000,000 for the fiscal year ending June 30, 1976".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR GRANTS FOR
CONSTRUCTION OF REHABILITATION FACILITIES

SEC. 104. Section 301(a) of such Act is amended by—

(1) striking out "and" after "1974," in the first sentence and inserting before the period at the end of such sentence a comma and "and June 30, 1976"; and

(2) striking out "1977" in the last sentence and inserting in lieu thereof "1978".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL
TRAINING SERVICES FOR HANDICAPPED INDIVIDUALS

SEC. 105. Section 302(a) of such Act is amended by striking out "and" after "1974," and by inserting after "1975" a comma and "and June 30, 1976".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL PROJECTS
AND DEMONSTRATIONS

SEC. 106. Section 304(a) (1) of such Act is amended by striking out "and" after "1974," and by inserting after "1975" a comma and "and \$20,000,000 for the fiscal year ending June 30, 1976".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL CENTER
FOR DEAF-BLIND YOUTHS AND ADULTS

SEC. 107. Section 305(a) of such Act is amended by striking out "and" after "1974," and by inserting after "1975" a comma and "and June 30, 1976".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM AND
PROJECT EVALUATION

SEC. 108. Section 403 of such Act is amended by striking out "and" after "1974," and by inserting after "1975," the following: "and June 30, 1976".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SECRETARIAL
RESPONSIBILITIES

SEC. 109. Section 405(d) of such Act is amended by inserting before the period a comma and "and \$600,000 for the fiscal year ending June 30, 1976".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR ARCHITECTURAL
AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 110. Section 502(h) of such Act is amended by inserting before the period at the end thereof a comma and "and \$1,500,000 for the fiscal year ending June 30, 1976".

MISCELLANEOUS AMENDMENTS

SEC. 111. (a) Section 7(6) of such Act is amended by adding at the end thereof the following new sentence: "For the purposes of titles IV and V of this Act, such term means any person who (A) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (B) has a record of such an impairment, or (C) is regarded as having such an impairment."

(b) Section 101(a) (6) of such Act is amended by adding at the end thereof before the semicolon "(including a requirement that the State agency and facilities in receipt of assistance under this title shall take affirmative action to employ and advance in employment qualified handicapped individuals covered under, and on the same terms and conditions as set forth in, section 503)".

(c) Section 101(a) (9) (C) of such Act is amended by adding at the end thereof before the semicolon "in such detail as required by the Secretary in order for him to analyze and evaluate annually the reasons for and numbers of such ineligibility determinations as part of his responsibilities under section 401, and that the State agency will at least annually categorize and analyze such reasons and numbers and report this information to the Secretary and will, not later than 12 months after each such determination, review each such ineligibility determination in accordance with the criteria set forth in section 102".

(d) Section 101(a) (15) of such Act is amended by inserting after "facilities" at the end of the parenthetical "and review of the efficacy of the criteria employed with respect to ineligibility determinations described in subclause (C) of clause (9) of this subsection".

(e) Section 102 of such Act is amended by—

(1) inserting in subsection (a) after "program" where it first appears in the first sentence a comma and "or the specification of reasons for a determination of ineligibility prior to initiation of such program based on preliminary diagnosis," and inserting at the end of the second sentence of such subsection before the period a comma and "and, as appropriate, such specification of reasons for such an ineligibility determination shall set forth the rights and remedies, including recourse to the process set forth in subsection (b) (5) of this section, available to the individual in question";

(2) striking out in subsection (c) all of clause (1) from "in" the first time it appears through "primary" and inserting in lieu thereof "in making any determination of ineligibility referred to in subsection (a) of this section, or in developing and carrying out the individualized written rehabilitation program required by section 101 in the case of each handicapped individual";

(3) striking out in clause (2) of subsection (c) "program, that the evaluation of rehabilitation potential" and inserting in lieu thereof "program, or as a part of the specification of reasons for an ineligibility determination, as appropriate, that the preliminary diagnosis or evaluation of rehabilitation potential, as appropriate,"; and

(4) inserting in clause (3) of subsection (c) a comma and "as an amendment to such written program," after "decision".

(f) Section 112(a) is amended by—

(1) striking out "an amount equal to the amount obligated for expenditure for carrying out such projects and demonstrations for appropriations under the Vocational Rehabilitation Act in the fiscal year ending June 30, 1973," and inserting in lieu thereof "\$11,860,000"; and

(2) adding at the end thereof a new sentence as follows: "In the event that funds so appropriated under section 304 do not exceed \$11,860,000 in any fiscal year, the Secretary is authorized to utilize such funds to carry out this section."

(g) Section 130(b) of such Act is amended by striking out "February 1, 1975" and inserting in lieu thereof "June 30, 1975".

(h) Section 202(a) of such Act is amended by striking out "and analyses" in the penultimate clause and inserting in lieu thereof a comma and "analyses, and demonstrations".

(i) Section 304(b) of such Act is amended by—

(1) striking out "and" before "(2)" in the first sentence, and inserting at the end of such sentence before the period a comma and "and (3) for operating programs (including renovation and construction of facilities, where appropriate) to demonstrate methods of making recreational activities fully accessible to handicapped individuals"; and

(2) striking out "for" the third time it appears in the parenthetical in clause (2) in the first sentence and inserting in lieu thereof "or".

(j) Section 304(c) of such Act is amended by inserting after "Labor," in the first sentence "who".

(k) Section 304(e) (1) of such Act is amended by inserting after "(B)" the following: "with the concurrence of the Board established by section 502,".

(l) (1) Section 306(b) of such Act is amended by inserting after "project" a comma and "or for a project which involves construction,".

(2) Section 306(b) (4) of such Act is amended by inserting after "specifications" the following: "which have been approved by the Board established by section 502,".

(m) Section 405(c) of such Act is amended by—

(1) striking out "the Handicapped" and inserting in lieu thereof "Handicapped Individuals"; and

(2) by adding at the end thereof the following new sentence: "In no event shall any functions under this section be further delegated to any persons with operational responsibilities for carrying out functions authorized under any other section of this Act or under any other provision of law designed to benefit handicapped individuals."

(n) (1) Section 502(a) of such Act is amended by redesignating clauses (6), (7), and (8) thereof as clauses (7); (8), and (9), respectively, and by inserting immediately after clause (5) the following new clause:

(6) Department of Defense;".

(2) Section 502(a) of such Act is further amended by adding at the end thereof the following new sentence: "The Secretary of Health, Education, and Welfare shall be the Chairman of the Board, and the Board shall appoint, upon recommendation of the Secretary, a Consumer Advisory Panel, a majority of the members of which shall be handicapped individuals, to provide guidance, advice, and recommendations to the Board in carrying out its functions."

(o) (1) Section 502(d) of such Act is amended by striking out "section, the Board" in the first sentence and inserting in lieu thereof "Act, the Board shall, directly or through grants to or contracts with public or private nonprofit organizations, carry out its functions under subsections (b) and (c) of this section, and".

(2) Section 502(d) of such Act is further amended by adding at the end thereof the following new sentences: "Any such order affecting any Federal department, agency, or instrumentality of the United States shall be final and binding on such department, agency, or instrumentality. An order of compliance may include the withholding or suspension of Federal funds with respect to any building found not to be in compliance with standards prescribed pursuant to the Acts cited in subsection (b) of this section."

(p) Section 502(e) of such Act is amended by adding before the first sentence the following new first sentence: "There shall be appointed by the Board an executive director and such other professional and clerical personnel as are necessary to carry out its functions under this Act."

(q) Section 502(g) of such Act is amended by striking out in the penultimate sentence "prior to January 1" and inserting in lieu thereof "not later than September 30".

TITLE II—RANDOLPH-SHEPPARD ACT AMENDMENTS

SHORT TITLE

SEC. 200. This title may be cited as the "Randolph-Sheppard Act Amendments of 1974".

FINDINGS

SEC. 201. The Congress finds—

(1) after review of the operation of the blind vending stand program authorized under the Randolph-Sheppard Act of June 20, 1936, that the program has not developed, and has not been sustained, in the manner and spirit in which the Congress intended at the time of its enactment, and that, in fact, the growth of the program has been inhibited by a number of external forces;

(2) that the potential exists for doubling the number of blind operators on Federal and other property under the Randolph-Sheppard program within the next five years, provided the obstacles to growth are removed, that legislative and administrative means exist to remove such obstacles, and that Congress should adopt legislation to that end; and

(3) that at a minimum the following actions must be taken to insure the continued vitality and expansion of the Randolph-Sheppard program—

(A) establish uniformity of treatment of blind vendors by all Federal departments, agencies, and instrumentalities,

(B) establish guidelines for the operation of the program by State licensing agencies,

(C) require coordination among the several entities with responsibility for the program,

(D) establish a priority for vending facilities operated by blind vendors on Federal property,

(E) establish administrative and judicial procedures under which fair treatment of blind vendors, State licensing agencies, and the Federal Government is assured,

(F) require stronger administration and oversight functions in the Federal office carrying out the program, and

(G) accomplish other legislative and administrative objectives which will permit the Randolph-Sheppard program to flourish.

OPERATION OF VENDING FACILITIES ON FEDERAL PROPERTY

SEC. 202. The first section of the Act entitled "An Act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes" (hereafter referred to in this title as the "Randolph-Sheppard Act"), approved June 20, 1936, as amended (20 U.S.C. 107), is amended by striking out all after the enacting clause and inserting in lieu thereof the following:

"That (a) for the purposes of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make

themselves self-supporting, blind persons licensed under the provisions of this Act shall be authorized to operate vending facilities on any Federal property.

"(b) In authorizing the operation of vending facilities on Federal property, priority shall be given to blind persons licensed by a State agency as provided in this Act; and the Secretary, through the Commissioner, shall, after consultation with the Administrator of General Services and other heads of departments, agencies, or instrumentalities of the United States in control of the maintenance, operation, and protection of Federal property, prescribe regulations designed to assure that—

"(1) the priority under this subsection is given to such licensed blind persons (including assignment of vending machine income pursuant to section 7 of this Act to achieve and protect such priority), and

"(2) wherever feasible, one or more vending facilities are established on all Federal property to the extent that any such facility or facilities would not adversely affect the interests of the United States.

Any limitation on the placement or operation of a vending facility based on a finding that such placement or operation would adversely affect the interests of the United States shall be fully justified in writing to the Secretary, who shall determine whether such limitation is justified. A determination made by the Secretary pursuant to this provision shall be binding on any department, agency, or instrumentality of the United States affected by such determination. The Secretary shall publish such determination, along with supporting documentation, in the Federal Register."

FEDERAL AND STATE RESPONSIBILITIES

SEC. 203. (a) (1) Section 2(a) of the Randolph-Sheppard Act is amended by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively, and by inserting the following new paragraph (1):

"(1) Insure that the Rehabilitation Services Administration is the principal agency for carrying out this Act; and the Commissioner shall, within one hundred and eighty days after enactment of the Randolph-Sheppard Act Amendments of 1974, establish requirements for the uniform application of this Act by each State agency designated under paragraph (5) of this subsection, including appropriate accounting procedures, policies on the selection and establishment of new vending facilities, distribution of income to blind vendors, and the use and control of set-aside funds under section 3(3) of this Act;"

(2) Section 2(a) (2) of such Act, as redesignated by paragraph (1) of this subsection, is amended to read as follows:

"(2) Through the Commissioner, make annual surveys of concession vending opportunities for blind persons on Federal and other property in the United States, particularly with respect to Federal property under the control of the General Services Administration, the Department of Defense, and the United States Postal Service;"

(3) Section 2(a) (5) of such Act, as redesignated by paragraph (1) of this subsection, is amended—

(A) by striking out "commission" each place it appears and inserting in lieu thereof "agency",

(B) by striking out "and at least twenty-one years of age",

(C) by striking out "articles dispensed automatically or in containers or wrapping in which they are placed before receipt by the vending stand, and such other articles as may be approved for each property by the department or agency in control of the maintenance, operation, and protection thereof and the State licensing agency in accordance with the regulations prescribed pursuant to the first section" and inserting in lieu thereof the following: "foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, as determined by the State licensing agency, and including the vending or exchange of chances for any lottery authorized by State law and conducted by an agency of a State",

(D) by striking out "stands" and "stand" and inserting in lieu thereof "facilities" and "facility", respectively, and

(E) by striking out the colon and all matter following the colon, and inserting in lieu thereof "; and".

(4) Section 2(a)(6) of such Act, as redesignated by paragraph (1) of this subsection, is amended to read as follows:

"(6) Through the Commission, (A) conduct periodic evaluations of the program authorized by this Act, including upward mobility and other training required by section 8, and annually submit to the appropriate committees of Congress a report based on such evaluations, and (B) take such other steps, including the issuance of such rules and regulations, as may be necessary or desirable in carrying out the provisions of this Act."

(b) Section 2(b) of such Act is amended—

(1) by striking out "stand" the first time it appears in the first sentence and where it appears in the second sentence and inserting in lieu thereof "facility";

(2) by striking out "and have resided for at least one year in the State in which such stand is located"; and

(3) by striking out "but are able, in spite of such infirmity, to operate such stands".

(c) Section 2(c) of such Act is amended by striking out "stand" in each place in which it appears and inserting in lieu thereof "facility".

(d) Section 2 of such Act is further amended by adding at the end thereof the following new subsections:

"(d) (1) After January 1, 1975, no department, agency, or instrumentality of the United States shall undertake to acquire by ownership, rent, lease, or to otherwise occupy, in whole or in part, any building unless, after consultation with the head of such department, agency, or instrumentality and the State licensing agency, it is determined by the Secretary that (A) such building includes a satisfactory site or sites for the location and operation of a vending facility by a blind person, or (B) if a building is to be constructed, substantially altered, or renovated, or in the case of a building that is already occupied on such date by such department, agency, or instrumentality,

is to be substantially altered or renovated for use by such department, agency, or instrumentality, the design for such construction, substantial alteration, or renovation includes a satisfactory site or sites for the location and operation of a vending facility by a blind person. Each such department, agency, or instrumentality shall provide notice to the appropriate State licensing agency of its plans for occupation, acquisition, renovation, or relocation of a building adequate to permit such State agency to determine whether such building includes a satisfactory site or sites for a vending facility.

"(2) The provisions of paragraph (1) shall not apply (A) when the Secretary and the State licensing agency determine that the number of people using the property is or will be insufficient to support a vending facility, or (B) to any privately owned building, any part of which is leased by any department, agency, or instrumentality of the United States and in which, (i) prior to the execution of such lease, the lessor or any of his tenants had in operation a restaurant or other food facility in a part of the building not included in such lease, and (ii) the operation of such a vending facility by a blind person would be in proximate and substantial direct competition with such restaurant or other food facility except that each such department, agency, and instrumentality shall make every effort to lease property in privately owned buildings capable of accommodating a vending facility.

"(3) For the purposes of this subsection, the term 'satisfactory site' means an area determined by the Secretary to have sufficient space, electrical and plumbing outlets, and such other facilities as the Secretary may by regulation prescribe, for the location and operation of a vending facility by a blind person.

"(e) In any State having an approved plan for vocational rehabilitation pursuant to the Vocational Rehabilitation Act or the Rehabilitation Act of 1973 (Public Law 93-112), the State licensing agency designated under paragraph (5) of subsection (a) of this section shall be the State agency designated under section 101(a)(1)(A) of such Rehabilitation Act of 1973."

DUTIES OF STATE LICENSING AGENCIES AND ARBITRATION

SEC. 204. (a) Section 3 of the Randolph-Sheppard Act is amended—

(1) by striking out "commission" and inserting in lieu thereof "agency";

(2) by striking out in paragraphs (2) and (3) "stand" and "stands" wherever such terms appear and inserting in lieu thereof "facility" and "facilities", respectively; and

(3) by striking out in paragraph (6) the word "stand" and inserting in lieu thereof "facility", and, by inserting immediately before the period the following: ", and to agree to submit the grievances of any blind licensee not otherwise resolved by such hearing to arbitration as provided in section 5 of this Act".

(b) Section 3(3) of such Act is further amended by striking out "and" immediately before subparagraph (D) and by inserting immediately before the colon at the end of such subparagraph the following "; and (E) retirement or pension funds, health insurance contributions, and provision for paid sick leave and vacation time, if it is determined by a majority vote of blind licensees licensed by such

State agency, after such agency provides to each such licensee full information on all matters relevant to such proposed program, that funds under this paragraph shall be set aside for such purposes".

(c) Section 3(3) of such Act is further amended by inserting before the word "proceeds" in both places it appears, the word "net".

REPEALS

SEC. 205. Sections 4 and 7 of the Randolph-Sheppard Act are repealed.

ARBITRATION; VENDING MACHINE INCOME; PERSONNEL; TRAINING

SEC. 206. The Randolph-Sheppard Act is further amended by redesignating sections 5, 6, and 8, as sections 4, 9, and 10, respectively, and by inserting immediately after section 4, as redesignated, the following new sections:

"SEC. 5. (a) Any blind licensee who is dissatisfied with any action arising from the operation or administration of the vending facility program may submit to a State licensing agency a request for a full evidentiary hearing, which shall be provided by such agency in accordance with section 3(6) of this Act. If such blind licensee is dissatisfied with any action taken or decision rendered as a result of such hearing, he may file a complaint with the Secretary who shall convene a panel to arbitrate the dispute pursuant to section 6 of this Act, and the decision of such panel shall be final and binding on the parties except as otherwise provided in this Act.

"(b) Whenever any State licensing agency determines that any department, agency, or instrumentality of the United States that has control of the maintenance, operation, and protection of Federal property is failing to comply with the provisions of this Act or any regulations issued thereunder (including a limitation on the placement or operation of a vending facility as described in section 1(b) of this Act and the Secretary's determination thereon) such licensing agency may file a complaint with the Secretary who shall convene a panel to arbitrate the dispute pursuant to section 6 of this Act, and the decision of such panel shall be final and binding on the parties except as otherwise provided in this Act.

"SEC. 6. (a) Upon receipt of a complaint filed under section 5 of this Act, the Secretary shall convene an ad hoc arbitration panel as provided in subsection (b). Such panel shall, in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, give notice, conduct a hearing, and render its decision which shall be subject to appeal and review as a final agency action for purposes of chapter 7 of such title 5.

"(b) (1) The arbitration panel convened by the Secretary to hear grievances of blind licensees shall be composed of three members appointed as follows:

"(A) one individual designated by the State licensing agency;

"(B) one individual designated by the blind licensee; and

"(C) one individual, not employed by the State licensing agency or, where appropriate, its parent agency, who shall serve as chairman, jointly designated by the members appointed under subparagraphs (A) and (B).

If any party fails to designate a member under subparagraph (1) (A), (B), or (C), the Secretary shall designate such member on behalf of such party.

"(2) The arbitration panel convened by the Secretary to hear complaints filed by a State licensing agency shall be composed of three members appointed as follows:

"(A) one individual, designated by the State licensing agency;

"(B) one individual, designated by the head of the Federal department, agency, or instrumentality controlling the Federal property over which the dispute arose; and

"(C) one individual, not employed by the Federal department, agency, or instrumentality controlling the Federal property over which the dispute arose, who shall serve as chairman, jointly designated by the members appointed under subparagraphs (A) and (B).

If any party fails to designate a member under subparagraph (2) (A), (B), or (C), the Secretary shall designate such member on behalf of such party. If the panel appointed pursuant to paragraph (2) finds that the acts or practices of any such department, agency, or instrumentality are in violation of this Act, or any regulation issued thereunder, the head of any such department, agency, or instrumentality shall cause such acts or practices to be terminated promptly and shall take such other action as may be necessary to carry out the decision of the panel.

"(c) The decisions of a panel convened by the Secretary pursuant to this section shall be matters of public record and shall be published in the Federal Register.

"(d) The Secretary shall pay all reasonable costs of arbitration under this section in accordance with a schedule of fees and expenses he shall publish in the Federal Register.

"SEC. 7. (a) In accordance with the provisions of subsection (b) of this section, vending machine income obtained from the operation of vending machines on Federal property shall accrue (1) to the blind licensee operating a vending facility on such property, or (2) in the event there is no blind licensee operating such facility on such property, to the State agency in whose State the Federal property is located, for the uses designated in subsection (c) of this section, except that with respect to income which accrues under clause (1) of this subsection, the Commissioner may prescribe regulations imposing a ceiling on income from such vending machines for an individual blind licensee. In the event such a ceiling is imposed, no blind licensee shall receive less vending machine income under such ceiling than he was receiving on January 1, 1974. No limitation shall be imposed on income from vending machines, combined to create a vending facility, which are maintained, serviced, or operated by a blind licensee. Any amounts received by a blind licensee that are in excess of the amount permitted to accrue to him under any ceiling imposed by the Commissioner shall be disbursed to the appropriate State agency under clause (2) of this subsection and shall be used by such agency in accordance with subsection (c) of this section.

"(b) (1) After January 1, 1975, 100 per centum of all vending machine income from vending machines on Federal property which

are in direct competition with a blind vending facility shall accrue as specified in subsection (a) of this section. 'Direct competition' as used in this section means the existence of any vending machines or facilities operated on the same premises as a blind vending facility except that vending machines or facilities operated in areas serving employees the majority of whom normally do not have direct access to the blind vending facility shall not be considered in direct competition with the blind vending facility. After January 1, 1975, 50 per centum of all vending machine income from vending machines on Federal property which are not in direct competition with a blind vending facility shall accrue as specified in subsection (a) of this section, except that with respect to Federal property at which at least 50 per centum of the total hours worked on the premises occurs during periods other than normal working hours, [25] 30 per centum of such income shall so accrue.

"(2) The head of each department, agency, and instrumentality of the United States shall insure compliance with this section with respect to buildings, installations, and facilities under his control, and shall be responsible for collection of, and accounting for, such vending machine income.

"(c) All vending machine income which accrues to a State licensing agency pursuant to subsection (a) of this section shall be used to establish retirement or pension plans, for health insurance contributions, and for provision of paid sick leave and vacation time for blind licensees in such State, subject to a vote of blind licensees as provided under section 3(3)(E) of this Act. Any vending machine income remaining after application of the first sentence of this subsection shall be used for the purposes specified in sections 3(3)(A), (B), (C), and (D) of this Act, and any assessment charged to blind licensees by a State licensing agency shall be reduced pro rata in an amount equal to the total of such remaining vending machine income.

"(d) Subsections (a) and (b)(1) of this section shall not apply to income from vending machines within retail sales outlets under the control of exchange or ships' stores systems authorized by title 10, United States Code, or to income from vending machines operated by the Veterans Canteen Service, or to income from vending machines not in direct competition with a blind vending facility at individual locations, installations, or facilities on Federal property the total of which at such individual locations, installations, or facilities does not exceed \$3,000 annually.

"(e) The Secretary, through the Commissioner, shall prescribe regulations to establish a priority for the operation of cafeterias on Federal property by blind licensees when he determines, on an individual basis and after consultation with the head of the appropriate installation, that such operation can be provided at a reasonable cost with food of a high quality comparable to that currently provided to employees, whether by contract or otherwise.

"(f) This section shall not operate to preclude preexisting or future arrangements, or regulations of departments, agencies, or instrumentalities of the United States, under which blind licensees (1) receive a greater percentage or amount of vending machine income than that specified in subsection (b)(1) of this section, or (2) receive

vending machine income from individual locations, installations, or facilities on Federal property the total of which at such individual locations, installations, or facilities does not exceed \$3,000 annually.

"(g) The Secretary shall take such action and promulgate such regulations as he deems necessary to assure compliance with this section.

"Sec. 8. The Commissioner shall insure, through promulgation of appropriate regulations, that uniform and effective training programs, including on-the-job training, are provided for blind individuals, through services under the Rehabilitation Act of 1973 (Public Law 93-112). He shall further insure that State agencies provide programs for upward mobility (including further education and additional training or retraining for improved work opportunities) for all trainees under this Act, and that follow-along services are provided to such trainees to assure that their maximum vocational potential is achieved."

DEFINITIONS

SEC. 207. Section 9 of the Randolph-Sheppard Act, as redesignated by section 206 of this title, is amended to read as follows:

"SEC. 9. As used in this Act—

"(1) 'blind person' means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty degrees. In determining whether an individual is blind, there shall be an examination by a physician skilled in diseases of the eye, or by an optometrist, whichever the individual shall select;

"(2) 'Commissioner' means the Commissioner of the Rehabilitation Services Administration;

"(3) 'Federal property' means any building, land, or other real property owned, leased, or occupied by any department, agency, or instrumentality of the United States (including the Department of Defense and the United States Postal Service), or any other instrumentality wholly owned by the United States, or by any department or agency of the District of Columbia or any territory or possession of the United States;

"(4) 'Secretary' means the Secretary of Health, Education, and Welfare;

"(5) 'State' means a State, territory, possession, Puerto Rico, or the District of Columbia;

"(6) 'United States' includes the several States, territories, and possessions of the United States, Puerto Rico, and the District of Columbia;

"(7) 'vending facility' means automatic vending machines, cafeterias, snack bars, cart services, shelters, counters, and such other appropriate auxiliary equipment as the Secretary may by regulation prescribe as being necessary for the sale of the articles or services described in section 2(a)(5) of this Act and which may be operated by blind licensees; and

"(8) 'vending machine income' means receipts (other than those of a blind licensee) from vending machine operations on Federal

property, after cost of goods sold (including reasonable service and maintenance costs), where the machines are operated, serviced, or maintained by, or with the approval of, a department, agency, or instrumentality of the United States, or commissions paid (other than to a blind licensee) by a commercial vending concern which operates, services, and maintains vending machines on Federal property for, or with the approval of, a department, agency, or instrumentality of the United States."

PERSONNEL

Sec. 208. (a) The Secretary of Health, Education, and Welfare is directed to assign to the Office for the Blind and Visually Handicapped of the Rehabilitation Services Administration of the Department of Health, Education, and Welfare ten additional full-time personnel (or their equivalent), five of whom shall be supportive personnel to carry out duties related to the administration of the Randolph-Sheppard Act.

(b) Section 5108(c) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (11) the following new paragraph:

"(12) the Secretary of Health, Education, and Welfare, subject to the standards and procedures prescribed by this chapter, may place one additional position in the Office for the Blind and Visually Handicapped of the Rehabilitation Services Administration in GS-16, GS-17, or GS-18."

(c) In selecting personnel to fill any position under this section, the Secretary of Health, Education, and Welfare shall give preference to blind individuals.

(d) Section 4(b) of the Randolph-Sheppard Act, as redesignated by section 206 of this title, is amended by striking out "and at least 50 per centum of such additional personnel shall be blind persons".

ADDITIONAL STAFF RESPONSIBILITIES

Sec. 209. In addition to other requirements imposed in this title and in the Randolph-Sheppard Act upon State licensing agencies, such agencies shall—

(1) provide to each blind licensee access to all relevant financial data, including quarterly and annual financial reports, on the operation of the State vending facility program;

(2) conduct the biennial election of a Committee of Blind Vendors who shall be fully representative of all blind licensees in the State program, and

(3) insure that such committee's responsibilities include (A) participation, with the State agency, in major administrative decisions and policy and program development, (B) receiving griev-

ances of blind licensees and serving as advocates for such licensees, (C) participation, with the State agency, in the development and administration of a transfer and promotion system for blind licensees, (D) participation, with the State agency, in developing training and retraining programs, and (E) sponsorship, with the assistance of the State agency, of meetings and instructional conferences for blind licensees.

STANDARDS, STUDIES, AND REPORTS

Sec. 210. (a) The Secretary, through the Commissioner, after a period of study not to exceed six months following the date of enactment of this title, and after full consultation with, and full consideration of the views of, blind vendors and State licensing agencies, shall promulgate national standards for funds set aside pursuant to section 3 (5) of the Randolph-Sheppard Act which include maximum and minimum amounts for such funds, and appropriate contributions, if any, to such funds by blind vendors.

(b) (1) The Secretary shall study the feasibility and desirability of establishing a nationally administered retirement, pension, and health insurance system for blind licensees, and such study shall include, but not be limited to, consideration of eligibility standards, amounts and sources of contributions, number of potential participants, total costs, and alternative forms of administration, including trust funds and revolving funds.

(2) The Secretary shall, within one year following the date of enactment of this title, complete the study required by paragraph (1) of this subsection and report his findings, together with any recommendations, to the President and the Congress.

(c) The Secretary shall, not later than September 30, 1975, complete an evaluation of the method of assigning vending machine income under section 7 (b) (1) of the Randolph-Sheppard Act, including its effect on the growth of the program authorized by the Act, and on the operation of nonappropriated fund activities, and within thirty days thereafter he shall report his findings, together with any recommendations, to the appropriate committees of the Congress.

(d) Each State licensing agency shall, within one year following the date of enactment of this title, submit to the Secretary a report, with appropriate supporting documentation, which shows the actions taken by such agency to meet the requirements of section 2(a) (1) of the Randolph-Sheppard Act.

AUDIT

Sec. 211. The Comptroller General is authorized to conduct regular and periodic audits of all nonappropriated fund activities which receive income from vending machines on Federal property, under such rules and regulations as he may prescribe. In the conduct of such audits he and his duly authorized representatives shall have access to any relevant books, documents, papers, accounts, and records of such activities as he deems necessary.

TITLE III—WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

SHORT TITLE

SEC. 300. This title may be cited as the "White House Conference on Handicapped Individuals Act".

FINDINGS AND POLICY

SEC. 301. The Congress finds that—

(1) the United States has achieved great and satisfying success in making possible a better quality of life for a large and increasing percentage of our population;

(2) the benefits and fundamental rights of this society are often denied those individuals with mental and physical handicaps;

(3) there are seven million children and at least twenty-eight million adults with mental and physical handicaps;

(4) it is of critical importance to this Nation that equality of opportunity, equal access to all aspects of society and equal rights guaranteed by the Constitution of the United States be provided to all individuals with handicaps;

(5) the primary responsibility for meeting the challenge and problems of individuals with handicaps has often fallen on the individual or his family;

(6) it is essential that recommendations be made to assure that all individuals with handicaps are able to live their lives independently and with dignity, and that the complete integration of all individuals with handicaps into normal community living, working, and service patterns be held as the final objective; and

(7) all levels of Government must necessarily share responsibility for developing opportunities for individuals with handicaps;

and it is therefore the policy of the Congress that the Federal Government work jointly with the States and their citizens to develop recommendations and plans for action in solving the multifold problems facing individuals with handicaps.

AUTHORITY OF PRESIDENT, COUNCIL, AND SECRETARY

SEC. 302. (a) The President is authorized to call a White House Conference on Handicapped Individuals not later than two years after the date of enactment of this title in order to develop recommendations and stimulate a national assessment of problems, and solutions to such problems, facing individuals with handicaps. Such a conference shall be planned and conducted under the direction of the National Planning and Advisory Council, established pursuant to subsection (b) of this section, and the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") and each Federal department and agency shall provide such cooperation and assistance to the Council, including the assignment of personnel, as may reasonably be required by the Secretary.

(b) (1) There is established a National Planning and Advisory Council (in this title referred to as the "Council"), appointed by the Secretary, composed of twenty-eight members of whom not less than ten shall be individuals with handicaps appointed to represent all individuals with handicaps, and five shall be parents of individuals with handicaps appointed to represent all such parents and individuals. The Council shall provide guidance and planning for the Conference.

(2) Any member of the Council who is otherwise employed by the Federal Government shall serve without compensation in addition to that received in his regular employment.

(3) Members of the Council, other than those referred to in paragraph (1), shall receive compensation at rates not to exceed the daily rate prescribed for GS-18 under section 5332, title 5, United States Code, for each day they are engaged in the performance of their duties (including traveltime); and, while so serving away from their homes or regular places of business, they shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703, title 5, United States Code, for persons in Government service employed intermittently.

(4) Such Council shall cease to exist one-hundred and twenty days after the submission of the final report required by section 302(e).

(c) For the purpose of ascertaining facts and making recommendations concerning the utilization of skills, experience, and energies, and the improvement of the conditions of individuals with handicaps, the Conference shall bring together individuals with handicaps and members of their families and representatives of Federal, State, and local governments, professional experts, and members of the general public recognized by individuals with handicaps as being knowledgeable about problems affecting their lives.

(d) Participants in the White House Conference, and in conferences and other activities leading up to the White House Conference at the local and State level are authorized to consider all matters related to the purposes of the Conference set forth in subsection (a), but shall give special consideration to recommendations for:

(1) providing education, health, and diagnostic services for all children early in life so that handicapping conditions may be discovered and treated;

(2) assuring that every individual with a handicap receives appropriately designed benefits of the educational system;

(3) assuring that individuals with handicaps have available to them all special services and assistance which will enable them to live their lives as fully and independently as possible;

(4) enabling individuals with handicaps to have access to usable communication services and devices at costs comparable to other members of the population;

(5) assuring that individuals with handicaps will have maximum mobility to participate in all aspects of society, including access to all publicly-assisted transportation services and, when necessary, alternative means of transportation at comparable cost;

(6) improving utilization and adaptation of modern engineering and other technology to ameliorate the impact of handicapping conditions on the lives of individuals and especially on their access to housing and other structures;

(7) assuring individuals with handicaps of equal opportunity with others to engage in gainful employment;

(8) enabling individuals with handicaps to have incomes sufficient for health and for participation in family and community life as self-respecting citizens;

(9) increasing research relating to all aspects of handicapping conditions, stressing the elimination of causes of handicapping conditions and the amelioration of the effects of such conditions;

(10) assuring close attention and assessment of all aspects of diagnosis and evaluation of individuals with handicaps;

(11) assuring review and evaluation of all governmental programs in areas affecting individuals with handicaps, and a close examination of the public role in order to plan for the future;

(12) resolving the special problems of veterans with handicaps;

(13) resolving the problems of public awareness and attitudes that restrict individuals with handicaps from participating in society to their fullest extent;

(14) resolving the special problems of individuals with handicaps who are homebound or institutionalized;

(15) resolving the special problems of individuals with handicaps who have limited English-speaking ability;

(16) allotting funds for basic vocational rehabilitation services under part B of title I of the Rehabilitation Act of 1973 in a fair and equitable manner in consideration of the factors set forth in section 407(a) of such Act; and

(17) promoting other related matters for individuals with handicaps.

(e) A final report of the White House Conference on Handicapped Individuals shall be submitted by the Council to the President not later than one hundred and twenty days following the date on which the conference is called, and the findings and recommendations included therein shall be immediately made available to the public. The Council and the Secretary shall, within ninety days after the submission of such final report, transmit to the President and the Congress their recommendations for administrative action and legislation necessary to implement the recommendations contained in such report.

RESPONSIBILITIES OF COUNCIL AND SECRETARY

SEC. 303. (a) In carrying out the provisions of this title, the Council and the Secretary shall—

(1) request the cooperation and assistance of such other Federal departments and agencies as may be appropriate, including Federal advisory bodies having responsibilities in areas affecting individuals with handicaps;

(2) render all reasonable assistance, including financial assistance, to the States in enabling them to organize and conduct conferences on handicapped individuals prior to the White House Conference on Handicapped Individuals;

(3) prepare and make available necessary background materials for the use of delegates to the White House Conference on Handicapped Individuals;

(4) prepare and distribute such interim reports of the White House Conference on Handicapped Individuals as may be appropriate; and

(5) engage such individuals with handicaps and additional personnel as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 57 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates of pay not to exceed the rate prescribed for GS-18 under section 5332 of such title.

(b) In carrying out the provisions of this title, the Secretary shall employ individuals with handicaps.

DEFINITION

SEC. 304. For the purpose of this title, the term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

STATE PARTICIPATION

SEC. 305. (a) From the sums appropriated pursuant to section 306 the Secretary is authorized to make a grant to each State, upon application of the chief executive thereof, in order to assist in meeting the costs of that State's participation in the Conference program, including the conduct of at least one conference within each such State.

(b) Grants made pursuant to subsection (a) shall be made only with the approval of the Council.

(c) Funds appropriated for the purposes of this subsection shall be apportioned among the States by the Secretary in accordance with their respective needs for assistance under this subsection, except that no State shall be apportioned more than \$25,000 nor less than \$10,000.

AUTHORIZATION OF APPROPRIATIONS

SEC. 306. There are authorized to be appropriated, without fiscal year limitations, \$2,000,000 to carry out the provisions of this title and such additional sums as may be necessary to carry out section 305. Sums so appropriated shall remain available for expenditure until June 30, 1977.

And the Senate agree to the same.

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

In lieu of the matter proposed to be inserted by the amendment of the Senate to the title of the bill, insert the following:

A bill to extend the authorizations of appropriations in the Rehabilitation Act of 1973 for one year, to transfer the Rehabilitation Services Administration to the Office of the Secretary of Health, Education, and Welfare, to make certain technical and clarifying amend-

ments, and for other purposes; to amend the Randolph-Sheppard Act for the blind; to strengthen the program authorized thereunder; and to provide for the convening of a White House Conference on Handicapped Individuals.

And the Senate agree to the same.

JENNINGS RANDOLPH,
ALAN CRANSTON,
HARRISON WILLIAMS,
CLAIBORNE PELL,
EDWARD M. KENNEDY,
WALTER F. MONDALE,
W. D. HATHAWAY,
BOB TAFT, Jr.,
DICK SCHWEIKER,
J. GLENN BEALL, Jr.,

Managers on the Part of the Senate.

CARL D. PERKINS,
JOHN BRADEMAs,
ALBERT H. QUIE,

Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14225) to amend and extend the Rehabilitation Act of 1973 for one additional year, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate to the text of the bill with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—AMENDMENTS TO THE REHABILITATION ACT OF 1973

SECTION 101. REHABILITATION SERVICES ADMINISTRATION

Both the House bill and the Senate amendment establish in the Office of the Secretary of Health, Education, and Welfare a Rehabilitation Services Administration (RSA) which shall be headed by a Commissioner, appointed by the President, except that the Senate amendment makes the appointment of the Commissioner subject to the advice and consent of the Senate. The House recedes.

The House bill provides that the Commissioner shall be directly responsible only to the Office of the Secretary of Health, Education, and Welfare. The Senate amendment provides that the Commissioner shall be directly responsible to the Secretary, or the Undersecretary or an appropriate Assistant Secretary of Health, Education, and Welfare, as designated by the Secretary. The House recedes.

The Senate amendment specifies that the Commissioner shall be the principal officer for carrying out titles I through III of the Rehabilitation Act of 1973. The House bill has no comparable provision. The House recedes.

The Senate amendment strikes out existing provisions in section 3(a) of the Rehabilitation Act of 1973, limiting any proposed delegation of authority by requiring the transmission of a plan to the Congress after consultation with the authorizing Committees regarding such plan, and substitutes in lieu thereof a prohibition against the delegation of the Commissioner's functions to any officer not directly

responsible to him both with respect to program operations and administration. The House recedes.

The conferees stress that the clarified language with respect to delegation of functions does not prohibit the centralized administration of certain routine administrative services by the Department of Health, Education, and Welfare in support of RSA functions and programs in the categories of budget formulation, grant administration, financial administration, and personnel administration. However, the conferees intend that the RSA Commissioner is to be responsible for all policy decisions in these four areas and that this policy-making responsibility cannot be delegated beyond persons directly responsible to him, both at headquarters and at regional offices. Where routine administrative functions and policy are intertwined, then the Committee intends that the functions be carried out within RSA, both at headquarters and at regional offices. The conferees have thus agreed to the Senate provision in this regard with full knowledge of its intention and the legislative history surrounding it.

The conferees are in agreement with the following clarifications submitted by HEW as to what are considered to be routine administrative services that can be centralized:

In the area of budget formulation, provision of technical assistance to the RSA budget officer to assure that budget documents conform to applicable O.M.B. and Department instructions in matters of form and timing of submission.

Preparation for RSA approval of testimony for presentation to the pertinent Appropriations subcommittees on the amounts sought for RSA.

In the area of grant administration, the processing of the necessary grant documents required to implement an RSA decision to award a project grant. This involves, among other things assuring that the award complies with the Department's Grants Administration Manual and with opinions of legal counsel respecting grants administration.

The preparation of the documents required to obligate RSA formula grant allotments.

Monitoring of the application of Department regulations governing the determination of amounts chargeable to grant awards and the expenditure of obligated funds under Treasury warrants.

In the area of financial management, assistance to RSA in the administration of accounting systems, and the preparation of documents required to obligate and expend salaries and expenses appropriations required for the operation of RSA.

In the area of personnel management, provision of general personnel management support services. Although RSA is responsible for the selection of persons for employment and promotion within RSA and for such selection and promotion decisions as to Regional Office personnel carrying out responsibilities under the Rehabilitation Act of 1973, the requisite appointment papers may be prepared and approved centrally in headquarters and in the region.

Maintenance of RSA personnel records, advice to RSA employees on personnel matters, and administration of the equal employment opportunity program.

While these are not all the areas, the conferees believe they cover the general area into which routine administrative services fall.

The Senate amendment makes the effective date of the revised section 3(a) sixty days after enactment of the Act, except that the amendment shall not take effect with respect to any individual holding the Office of RSA Commissioner on the date of enactment until such individual ceases to hold such office. The House bill has no comparable provision. The House recedes with an amendment deleting the exception with respect to the applicability of that amendment to the incumbent of the RSA Commissioner's office.

SECTION 102. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL REHABILITATION SERVICES

Both the House bill (\$40 million) and the Senate amendment (\$42 million) authorize appropriations for innovation and expansion grants for FY 1976, and the Senate amendment also authorizes an appropriation (\$45 million) for FY 1977. The conference agreement authorizes an appropriation of \$42 million for FY 1976. With respect to this as well as all the other appropriations authorization extensions, the Senate recedes with respect to authorizations for FY 1977.

Both the House bill and the Senate amendment extend the time during which part C of title I—Innovation and Expansion Grants—funds are available for obligation, the House bill for one year and the Senate amendment for two years. The Senate recedes.

Both the House bill (a minimum of \$1 million and a maximum of \$2.5 million) and the Senate amendment (a minimum of \$1.5 million and a maximum of \$3 million) extend for FY 1976 the earmark out of special projects appropriations under section 304 of the Rehabilitation Act of 1973, and the Senate amendment also extends the same earmarking for FY 1977. The Senate recedes.

SECTION 103. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH AND TRAINING

Both the House bill (\$30 million) and the Senate amendment (\$35 million) authorize appropriations for research for FY 1976, and the Senate amendment also authorizes an appropriation (\$37.5 million) for FY 1977. The conference agreement authorizes an appropriation of \$32 million for research for FY 1976.

Both the House bill (\$30 million) and the Senate amendment (\$35 million) authorize appropriations for training for FY 1976, and the Senate amendment also authorizes an appropriation (\$37.5 million) for FY 1977. The conference agreement authorizes an appropriation of \$32 million for training for FY 1976.

SECTION 104. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR GRANTS FOR CONSTRUCTION OF REHABILITATION FACILITIES

Both the House bill and the Senate amendment authorize an appropriation of such sums as may be necessary for construction grants for FY 1976, and the Senate amendment also authorizes a such sums appropriation for FY 1977. The Senate recedes.

Both the House bill and the Senate amendment extend the time during which construction grant appropriations will remain available for expenditure, the House bill for one year and the Senate amendment for two years. The Senate recedes.

SECTION 105. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL TRAINING SERVICES FOR HANDICAPPED INDIVIDUALS

Both the House bill and the Senate amendment authorize the appropriation of such sums as may be necessary for vocational training services for FY 1976, and the Senate amendment also authorizes a such sums appropriation for FY 1977. The Senate recedes.

SECTION 106. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL PROJECTS AND DEMONSTRATIONS

Both the House bill and the Senate amendment authorize the appropriation of \$20 million for special projects and demonstrations for FY 1976, and the Senate amendment also authorizes an appropriation of \$25 million for FY 1977. The Senate recedes.

SECTION 107. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL CENTER DEAF-BLIND YOUTHS AND ADULTS

Both the House bill and the Senate amendment authorize the appropriation of such sums as may be necessary for the National Center for Deaf-Blind Youths and Adults for FY 1976, and the Senate amendment also authorizes a such sums appropriation for FY 1977. The Senate recedes.

SECTION 108. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM AND PROJECT EVALUATION

Both the House bill and the Senate amendment authorize the appropriation of such sums as may be necessary for program and project evaluation for FY 1976, and the Senate amendment also authorizes a such sums appropriation for FY 1977. The Senate recedes.

SECTION 109. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SECRETARIAL RESPONSIBILITIES (OFFICE FOR HANDICAPPED INDIVIDUALS)

Both the House bill (\$500,000) and the Senate amendment (\$700,000) authorize appropriations for carrying out special Secretarial responsibilities (Office for Handicapped Individuals) for FY 1976, and the Senate amendment also authorizes the appropriation of \$1 million for FY 1977. The conference agreement authorizes an appropriation of \$600,000 for Secretarial responsibilities for FY 1976.

SECTION 110. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Both the House bill (\$1 million) and the Senate amendment (\$1.5 million) authorize appropriations for the Architectural and Transportation Barriers Compliance Board for FY 1976, and the Senate

amendment also authorizes an appropriation of \$2 million for FY 1977. The conference agreement authorizes an appropriation of \$1.5 million for FY 1976.

SECTION 111. MISCELLANEOUS AMENDMENTS

Definition of "handicapped individuals"

The Senate amendment adds to section 7(6) of the Rehabilitation Act of 1973 the following new definition of "handicapped individual" for the purposes of titles IV and V of that Act: "Any person who (A) has a physical or mental impairment which substantially limits such person's functioning or one or more such person's major life activities, (B) has a record of such an impairment, or (C) is regarded as having such an impairment." The House bill has no comparable provision. The House recedes with an amendment deleting from clause (A) the language "such person's functioning or" as redundant.

Section 7(6) of the Rehabilitation Act of 1973 defines "handicapped individual." That definition has proven to be troublesome in its application to provisions of the Act such as sections 503 and 504 because of its orientation toward employment and its relation to vocational rehabilitation services. It was clearly the intent of the Congress in adopting section 503 (affirmative action) and section 504 (nondiscrimination) that the term "handicapped individual" in those sections was not to be narrowly limited to employment (in the case of section 504), nor to the individual's potential benefit from vocational rehabilitation services under titles I and III (in the case of both sections 503 and 504) of the Act.

Thus, it was not intended that an employer-government contractor should condition its hiring of handicapped individuals under an affirmative action plan on such individuals' having benefited, or having a reasonable expectation of benefiting, from vocational rehabilitation services. Similarly, a test of discrimination against a handicapped individual under section 504 should not be couched either in terms of whether such individual's disability is a handicap to employment, or whether such individual can reasonably be expected to benefit, in terms of employment, from vocational rehabilitation services. Such a test is irrelevant to the many forms of potential discrimination covered by section 504.

Section 504 was enacted to prevent discrimination against all handicapped individuals, regardless of their need for, or ability to benefit from, vocational rehabilitation services, in relation to Federal assistance in employment, housing, transportation, education, health services, or any other Federally-aided programs. Examples of handicapped individuals who may suffer discrimination in the receipt of Federally-assisted services but who may have been unintentionally excluded from the protection of section 504 by the references to enhanced employability in section 7(6) are as follows: physically or mentally handicapped children who may be denied admission to Federally-supported school systems on the basis of their handicap; handicapped persons who may be denied admission to Federally-assisted nursing homes on the basis of their handicap; those persons whose handicap is so severe that employment is not feasible but who may be

denied the benefits of a wide range of Federal programs; and those persons whose vocational rehabilitation is complete but who may nevertheless be discriminated against in certain Federally-assisted activities.

In order to embody this underlying intent, section 101(a) of the Conference agreement adds the new definition of "handicapped individual" for the purposes of titles IV and V of the Act. The amended definition eliminates any reference to employment and takes cognizance of the fact that handicapped persons are discriminated against in a number of ways. First, they are discriminated against when they are, in fact, handicapped (this is similar to discrimination because of race and sex). Second, they are discriminated against because they are classified or labeled, correctly or incorrectly, as handicapped (this has no direct parallel in either race or sex discrimination, although racial and ethnic factors may contribute to misclassification as mentally retarded). Third, they are discriminated against if they are regarded as handicapped, regardless of whether they are in fact handicapped (this has a parallel in race discrimination where a person is regarded as being of a minority group even though, in fact, he is not).

Clause (A) in the new definition eliminates any reference to employment and makes the definition applicable to the provision of Federally-assisted services and programs. Clause (B) is intended to make clearer that the coverage of sections 503 and 504 extends to persons who have recovered—in whole or in part—from a handicapping condition, such as a mental or neurological illness, a heart attack, or cancer and to persons who were classified as handicapped (for example, as mentally ill or mentally retarded), but who may be discriminated against or otherwise be in need of the protection of sections 503 and 504.

Clause (C) in the new definition clarifies the intention to include those persons who are discriminated against on the basis of handicap, whether or not they are in fact handicapped, just as title VI of the Civil Rights Act of 1964 prohibits discrimination on the ground of race, whether or not the person discriminated against is in fact a member of a racial minority. This subsection includes within the protection of sections 503 and 504 those persons who do not in fact have the condition which they are perceived as having, as well as those persons whose mental or physical condition does not substantially limit their life activities and who thus are not technically within clause (A) in the new definition. Members of both of these groups may be subjected to discrimination on the basis of their being regarded as handicapped.

The new definition applies to section 503, as well as to section 504, in order to avoid limiting the affirmative action obligation of a Federal contractor to only that class of persons who are eligible for vocational rehabilitation services. It should be noted, however, that the affirmative action obligation cannot be fulfilled by the expediency of hiring or limiting services to persons marginally or previously handicapped or persons "regarded as" handicapped. Rather, an acceptable affirmative action program must be aimed at the entire class of employable handicapped persons, with particular attention to those who are presently, actually, and significantly handicapped. This standard

parallels the obligation of a Federal contractor under Executive Order No. 11246 to employ persons who might be discriminated against on the basis of national origin: the obligation extends to all ethnic groups within the available applicant pool and cannot be fulfilled selectively by hiring persons from only one ethnic group. Where applicable, section 504 is intended to include a requirement of affirmative action as well as a prohibition against discrimination.

It should also be noted that, although the "employability"—confining context of the present Rehabilitation Act section 7(b) definition of "handicapped individual" is removed from the new definition as to section 503 as well as the use of the term elsewhere in titles IV and V, section 503 itself relates solely to employment and thus the adjective "qualified" in modification of "handicapped individual" in that section clearly requires that the "employability" of the handicapped individual in question is a prerequisite to section 503 application.

Section 504 was patterned after, and is almost identical to, the anti-discrimination language of section 601 of the Civil Rights Act of 1964, 42 U.S.C. 2000d-1 (relating to race, color, or national origin), and section 901 of the Education Amendments of 1972, 42 U.S.C. 1683 (relating to sex). The section therefore constitutes the establishment of a broad government policy that programs receiving Federal financial assistance shall be operated without discrimination on the basis of handicap. It does not specifically require the issuance of regulations or expressly provide for enforcement procedures, but it is clearly mandatory in form, and such regulations and enforcement are intended.

The language of section 504, in following the above-cited Acts, further envisions the implementation of a compliance program which is similar to those Acts, including promulgation of regulations providing for investigation and review of recipients of Federal financial assistance, attempts to bring non-complying recipients into voluntary compliance through informal efforts such as negotiation, and the imposition of sanctions against recipients who continue to discriminate against otherwise qualified handicapped persons on the basis of handicap. Such sanctions would include, where appropriate, the termination of Federal financial assistance to the recipient or other means otherwise authorized by law. Implementation of section 504 would also include pre-grant analysis of recipients to ensure that Federal funds are not initially provided to those who discriminate against handicapped individuals. Such analysis would include pre-grant review procedures and a requirement for assurances of compliance with section 504. This approach to implementation of section 504, which closely follows the models of the above-cited anti-discrimination provisions, would ensure administrative due process (right to hearing, right to review), provide for administrative consistency within the Federal government as well as relative ease of implementation, and permit a judicial remedy through a private action.

It is intended that sections 503 and 504 be administered in such a manner that a consistent, uniform, and effective Federal approach to discrimination against handicapped persons would result. Thus, Federal agencies and departments should cooperate in developing standards and policies so that there is a uniform, consistent Federal

approach to these sections. The Secretary of the Department of Health, Education, and Welfare, because of that Department's experience in dealing with handicapped persons and with the elimination of discrimination in other areas, should assume responsibility for coordinating the section 504 enforcement effort and for establishing a coordinating mechanism with the Secretary of the Department of Labor to ensure a consistent approach to the implementation of sections 503 and 504. The conferees fully expect that H.E.W.'s section 504 regulations should be completed by the close of this year. Delay beyond this point would be most unfortunate since the Act (P.L. 92-112) was enacted over one year ago—September 26, 1973.

The conferees note that Executive Order No. 11758, section 2, delegates to the Secretary of Labor the responsibility for carrying out the responsibilities embodied in section 503 of the Rehabilitation Act of 1973, and urge a similar delegation of responsibility to the Secretary of HEW to carry out on a Government-wide basis those responsibilities embodied in section 504.

Affirmative action in employment under State vocational rehabilitation plans

The Senate amendment requires each State agency and each facility in receipt of Rehabilitation Act title I funds take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions as set forth in section 503 of the Rehabilitation Act of 1973 dealing with employment under Federal contracts and subcontracts. The House bill has no comparable provision. The House recedes.

Requirements for early eligibility determination; individualized written rehabilitation program

The Senate amendment requires:

(1) that each State agency must (in addition to keeping records of the characteristics of applicants who are determined not to be eligible for vocational rehabilitation services, under title I, including the reasons for such determinations), keep such records in sufficient detail to enable the Secretary to analyze and evaluate annually the reasons for such determinations and the numbers of individuals determined to be ineligible;

(2) that the State agency report semi-annually to the Secretary on these determinations categorizing them and analyzing the reasons for them;

(3) that the State agency annually review these ineligibility determinations on an individual basis in exactly the same manner as it would review an ineligibility determination of an individual after the process of evaluation or extended evaluation had begun and an individualized written rehabilitation program had been prepared (so that any change which had occurred in the individual's capacities and the degree of disability would be reevaluated periodically with a view toward giving that individual the benefit of the doubt with respect to the potential for a vocational goal, as required by section 102(c));

(4) that the State agency's continuing State-wide studies of the needs of handicapped individuals include a review of the efficacy of the criteria used with respect to such ineligibility determinations;

(5) that such ineligibility determinations be made jointly by the vocational rehabilitation counsellor and the handicapped individual;

(6) that an individual who has been so determined to be ineligible shall be advised of all rights and remedies, such as appeal rights and the availability of a client assistance project—where there is one—which are available to such individual; and

(7) that any ineligibility determination made prior to the beginning of evaluation or extended evaluation be made (as with a later determination after the individualized written rehabilitation program has been developed) only after a full attempt has been made to develop a vocational goal for that individual and only upon certification by the counsellor (which certification would include a specification of reasons for the ineligibility determination) that the individual is not capable, beyond a reasonable doubt of achieving a vocational goal at that time.

The House bill has no comparable provision. The House recedes with amendments providing that the State agency review required in item (2) above shall be carried out on at least an annual basis rather than on a semi-annual basis; providing that the State agency review of each ineligibility determination, as required in item (3) above, shall take place not later than twelve months after each such determination rather than annually; and making a conforming change in section 112(c)(3) of the Act so that annual review of an ineligibility determination under that provision is required only as to such determinations made as part of (and as an amendment to) an individualized written rehabilitation program.

The conferences wish to stress that the requirements set forth in item (2) above that the State at least annually categorize and analyze the reasons and the numbers of ineligibility determinations does not impose an obligation for annual review of individual cases but rather only a requirement for statistical categorization and analyses. The requirement with respect to reviews of individual cases in which ineligibility determinations have been made is set forth under item (3) above as modified by the conference agreement to require that the review occur at only one point, not later than twelve months after such an as to each ineligibility determination not made as a part of the individual written rehabilitation program process. The purpose of the State agency, as well as Secretarial, analysis of the reasons for such ineligibility determinations is to develop information on the kinds and duration of handicapping conditions most frequently leading to ineligibility determinations, the socio-economic backgrounds of the individuals found so ineligible, and other information that might provide useful insight into the pattern of the decision-making process with respect to such ineligibility determinations in each State. The conferees also expect that such analysis would develop information indicating where State training and dissemination of information is necessary in order to avoid decisions made according to stereotypes of handicaps or on the basis of particular characteristics not necessarily relevant to an individual's potential for developing a vocational goal.

Client assistance funding earmark

The Senate amendment eliminates as to FYs 1975, 1976, and 1977 funding of client assistance projects, the conditional nature of the

earmark of funds for client assistance projects—that such earmarking takes effect only with respect to amounts equal to the amount of obligations for carrying out special projects and demonstrations under the superceded Vocational Rehabilitation Act from FY 1973 appropriations under that Act. The House bill contains no comparable provision. The House recedes with an amendment which substitutes the specific figure of \$11,860,000 for the reference to the FY 1973 level of obligations for special projects and demonstrations under the Vocational Rehabilitation Act, as the amount which must be appropriated in FY 1976 before the client assistance earmark (of \$1 million minimum and \$2.5 million maximum) applies, and provides authority to the Secretary to fund section 112 client assistance projects in the event that the amount appropriated under section 304 in FY 1976 is not in excess of \$11,860,000.

The conferees wish to stress their very strong intention that at least the present level of funding will be maintained for the special projects and demonstrations authorized in section 304. The conferees further intend that continuation of funding for the developmental disabilities projects under any newly created statutory authority should be carried out under a separate appropriation for that purpose. In no event do the conferees intend that there be any diminution in funding of special projects and demonstrations under the Rehabilitation Act of 1973.

With respect to client assistance funding, the conferees intend that the Secretary exercise the new sub-\$11,860,000 funding authority as follows: First, providing continuation of funding for special projects and demonstrations funded in FY 1975—such as new careers, industry projects, and technical assistance—and such vocational rehabilitation developmental disabilities special projects meeting the requirements of the Act which continue to be carried out under the section 304 authority; and next, providing funding to client assistance projects at at least the level at which they are funded in FY 1975.

Comprehensive Service Needs Special Study reporting date

The House bill extends the reporting date for the Rehabilitation Act section 130 Comprehensive Service Needs Special Study from February 1, 1975 to June 30, 1975. The Senate amendment extends that reporting date to September 30, 1975. The Senate recedes.

The conferees agree and intend that new research and demonstration projects shall be included in the Comprehensive Service Needs Special Study to test the feasibility of methods designed to prepare individuals with the most severe handicaps for entry into programs under the Act and to assist individuals who cannot reasonably be expected to be rehabilitated for employment to live independently and function normally within their family and community.

In the Joint Explanatory Statement accompanying the conference report on H.R. 8070, the Rehabilitation Act of 1973 (P.L. 93-112), it is stated that the Senate receded to a House amendment which *required* the Commissioner to include research and demonstration projects, whereas the Senate amendment would only have provided that the study *may* include such projects. This makes clear, the conferees believe, that it was the intent of the conferees on H.R. 8070 that the Special Study include new demonstration projects; to the extent

that there are demonstration projects underway that are consistent with the objectives of the study, it was the intent of the Congress that such projects be utilized in the findings of the study. Certainly, it was never contemplated that ongoing projects could be used as a substitute for carrying out the new projects required by the law.

The purpose of including new demonstration projects in the Special Study is so that new programs and new approaches to assisting individuals with the most severe handicaps may be tested and reported on to Congress. The conferees believe that new demonstration projects are an integral part of the Special Study and should be conducted in close cooperation with, the contractor responsible for the study itself.

The conferees agree with the Administration's view that two or three years is usually required for successful completion of demonstration projects. However, by the June 30, 1975, Special Study reporting date, the conferees direct that these new projects be well underway and that preliminary findings based on them be included in that report along with the plan and timetable for completion of such projects. The conferees further direct that RSA submit detailed interim reports to the Congress on the progress of the new demonstration projects on July 1, 1976, and July 1, 1977, and a final report prior to July 1, 1978. These reports are in addition to the report due, under the conference agreement, on June 30, 1975.

The Administration's present proposal to fund such new demonstration projects in fiscal year 1975 at between \$250,000 and \$300,000 is well below the \$1 million amount earmarked in the law and is totally inadequate for meeting the purposes of designing, initiating, and carrying out the required demonstration projects.

The conferees therefore direct RSA to comply with the law and fund these projects at the level provided in the law—\$1 million each for FYs 1975 and 1976.

Finally, in designing these new special projects, the conferees direct that RSA consult with representatives of State vocational rehabilitation agencies and carry out part of these demonstrations through State agencies.

Research demonstrations of architectural and engineering designs to meet handicapped individuals' special needs

The Senate amendment adds to the list of activities for which Rehabilitation Act section 202 research grants and contracts are authorized, "demonstrations" (presently only studies and analyses) of architectural and engineering designs adapted to meet the special needs of handicapped individuals. The House bill has no comparable provision. The House recedes.

Special projects demonstrating methods of making recreational activities accessible to handicapped individuals

The Senate amendment adds to the Rehabilitation Act section 304(b) special project and demonstration grant authority, a new authority to support operating programs (including renovation and construction) to demonstrate methods of making recreational activities fully accessible to handicapped individuals. The House bill contains no comparable provision. The House recedes.

Technical amendments to correct oversights in Rehabilitation Act language

The Senate amendment makes amendments to add a missing word "for" to section 304(b)(2) and a missing "who" to section 304(c) of the Rehabilitation Act of 1973. The House bill contains no comparable provisions. The House recedes.

Architectural Barriers Board concurrence in technical assistance projects

The Senate amendment requires that technical assistance now authorized to be provided by the Secretary to rehabilitation facilities and for the purpose of removal of architectural and transportation barriers, be provided only with the concurrence of the Architectural and Transportation Barriers Compliance Board. The House bill has no comparable provision. The House recedes.

Date of submission of long-range projection for provision of comprehensive services to handicapped individuals

The Senate amendment extends from March 26, 1975, to July 1, 1975, the date by which the Secretary must submit to the Congress the long-range projection for the provision of comprehensive services to handicapped individuals and for programs of research, evaluation, and training related to such services and individuals, as required by section 405(a)(1) of the Rehabilitation Act of 1973. The House bill contains no comparable provision. The Senate recedes, in view of the fact that the Department of Health, Education, and Welfare has not requested a delayed reporting date for this provision, as was the case with respect to the Comprehensive Needs Special Study.

Delegation of Secretarial responsibilities (Office for Handicapped Individuals)

The Senate amendment amends section 405(c) of the Rehabilitation Act of 1973, prohibiting the delegation of section 405 Secretarial functions to any person not assigned to or operating in the Office of the Secretary (except that the Secretary may establish an Office for the Handicapped in the office of an appropriate Assistant Secretary), by providing that these section 405 functions shall be carried out only by individuals operating in the immediate Office of the Secretary, or the Undersecretary of Health, Education, and Welfare (and not in the office of an Assistant Secretary) and that such functions include the establishment and operation of an Office for Handicapped Individuals to carry out the section 405 responsibilities of the Secretary. The House bill contains no comparable provision. The House recedes with an amendment which leaves intact the present sentence in section 405(c) of the Rehabilitation Act of 1973 (except that the name of the "Office for the Handicapped" is changed to "Office for Handicapped Individuals"), and provides that in no event shall any Secretarial functions under section 405 be further delegated to any persons with operational responsibilities for carrying out programs designed to benefit handicapped individuals, including any program under any other section of the Rehabilitation Act of 1973.

The Senate amendment was designed, in view of other amendments adopted to transfer the Rehabilitation Services Administration to the Office of the Secretary, to assure consistency with the intent of existing law that no operating program shall report to or through such person or support staff carrying out the responsibilities assigned to the Secretary in section 405.

The conferees are dissatisfied with action taken to date to implement the Secretarial responsibilities provisions of section 405 and to hire necessary staff to carry out these responsibilities. The conferees direct the Secretary to take expeditious actions to hire the necessary staff and assure that the March 26, 1975, long-range-projection reporting date is met.

Architectural and Transportation Barriers Compliance Board authority

The Senate amendment makes the following amendments in the authorities respecting the Architectural and Transportation Barriers Compliance Board in section 502 of the Rehabilitation Act of 1973:

(1) adds the Department of Defense as a statutory member of the Board;

(2) provides that the Secretary of Health, Education, and Welfare shall be the Chairman of the Board and that the Board shall appoint, upon recommendation of the Secretary, a Consumer Advisory Panel, consisting of a majority of handicapped individuals, to provide guidance, advice, and recommendations to the Board in carrying out its functions;

(3) clarifies the authority of the Board to make grants and contracts to carry out its functions;

(4) gives the Board effective compliance authority with respect to its responsibility in subsection (b) to insure compliance with the standards prescribed under Public Laws 90-480 and 91-205, by providing that compliance orders of the Board shall be final and binding on the Department, agency, or instrumentality involved and may include the withholding or suspension of Federal funds with respect to any building found not to be in compliance with those standards;

(5) specifies that there shall be an executive director of the Board, appointed by the Board, and such other professional and clerical personnel, also appointed by the Board, as are necessary to carry out the Board's functions; and

(6) changes to September 30, 1975, the final reporting date on transportation and housing.

The House bill contains no comparable provision. The House recedes.

TITLE II—RANDOLPH-SHEPPARD ACT AMENDMENTS

SECTION 200. SHORT TITLE

The Senate amendment provides that title II may be cited as the "Randolph-Sheppard Act Amendments of 1974." The House bill contains no comparable provision. The House recedes.

SECTION 201. FINDINGS

The Senate amendment lists a number of findings of Congress relating to the deficiencies in the blind vendor program. The House bill contains no comparable provision. The House recedes.

SECTION 202. VENDING FACILITY OPERATIONS

The Senate amendment gives a priority to blind vendors in operating facilities on Federal property, requires regulations to protect the priority and to assure the location, where feasible, of vending facilities on all Federal property. The House bill contains no comparable provision. The House recedes with an amendment.

The conferees have eliminated from proposed section 1(b)(2) of the Act (section 202 of the Senate amendment) the clause "including, to the maximum extent feasible, vending facilities in the areas where employees work,".

The purpose of this change is to remove the emphasis on placing blind vendors in employee work areas. It is not the intention of the conferees to wholly preclude the placement of a blind vendor in such areas.

The conferees take note of the fact that blind vendors do currently operate in swing rooms, adjacent to the workroom floor, and near employee entrances. Factors governing the placement of blind vendors on any Federal property will, of course, apply in such cases; that is, the building population and potential income for the blind vendor must be considered.

SECTION 203. FEDERAL AND STATE RESPONSIBILITIES

The Senate amendment amends section 2 of the Randolph-Sheppard Act to create greater uniformity in the operation of the program, eliminate archaic language, and require new or renovated buildings owned or occupied by Federal entities to include satisfactory sites for blind vending facilities. The House bill contains no comparable provision. The House recedes with amendments.

The conferees have modified section 203(d) of the Senate amendment (proposed section 2(d)(1) of the Act) to require that the Secretary of Health, Education, and Welfare consult with the head of the appropriate Federal department, agency, or instrumentality prior to his determination that a building contains, or does not contain, a satisfactory site or sites for a blind vending facility. The purpose of this proposed change is to assure that each agency will have early access to the Secretary of HEW to give each such agency an adequate opportunity to present its views and desires with respect to the selection of sites for blind vending facilities. In this way the position of the agency, the State licensing agency, and the Secretary, will be clearly established, and accommodations can be made in conformance with the intent of the Act.

The conferees have changed certain dates in the Senate amendment in order to permit the implementation of portions of title II on a more realistic schedule. Thus, in section 203(d) (proposed section 2(d)(1) of the Act), and in section 206 (proposed section 7(b)(1) of the Act),

the dates for requiring site selection determinations for new, newly occupied, or renovated buildings, and for allocating vending machine income, respectively, are changed from September 30, 1974 to January 1, 1975.

SECTION 204. STATE AGENCIES AND ARBITRATION

The Senate amendment amends section 3 of the Randolph-Sheppard Act to provide that set-aside funds be used for health, sick leave and vacation, and retirement contributions, and to require State agencies to submit to arbitration of grievances. The House bill contains no comparable provision. The House recedes.

SECTION 205. REPEALS

The Senate amendment repeals sections 4 and 7 of the Randolph-Sheppard Act which, respectively, authorizes the Secretary to cooperate with State Rehabilitation Boards, and outlines State agency procedures in conjunction with the Vocational Rehabilitation Act. The House bill contains no comparable provisions. Both provisions are unnecessary and anachronistic. The House recedes.

SECTION 206. ARBITRATION; VENDING MACHINE INCOME; PERSONNEL; TRAINING

The Senate amendment creates four new sections of the Randolph-Sheppard Act. Sections 5 and 6 establish an arbitration and judicial review mechanism for blind vendors and State agencies. Section 7 assigns vending machine income on Federal property to blind vendors and State licensing agencies under a formula based on whether machines are in direct competition with a blind vendor, sets forth requirements for use of such income, excludes certain locations, and sets conditions on cafeteria operations. Section 8 requires effective training programs, upward mobility, and follow-along programs for blind individuals. The House bill contains no comparable provisions. The House recedes with amendments.

The conferees have modified the definition of "direct competition" under proposed section 7(b)(1) of the Act (section 206 of the Senate amendment) to exclude from that definition vending machines or facilities operated in areas serving employees the majority of whom normally do not have direct access to the blind vending facility. The conferees expressly intend that vending machines in cafeterias on Federal property, and any machines the income from which is used by such cafeterias, are subject to the same criteria for assignment of income under proposed section 7(a) and (b)(1) of the Act as are any other vending machines. The words "normally" and "direct" have been added to make clear that the existence of infrequent or unusual access to a blind vending facility by employees would not operate to place vending machines serving such employees in direct competition with a blind vending facility for purposes of section 7(b)(1).

The conferees have eliminated the first two sentences of proposed section 7(b)(2) of the Act in section 206 of the Senate amendment. The first sentence requires the Secretary of Health, Education, and

Welfare to determine, after considering the views of the appropriate department head and affected groups or organizations, the purposes for which vending machine income remaining after assignment pursuant to subsections (a) and (b) (1) may be used. The second sentence requires that all income from new or replacement vending machines on Federal property accrue as specified in subsection (a).

The conferees have increased the minimum percentage of vending machine income accruable to blind vendors and State licensing agencies under proposed section 7(b) (1) of the Act (in section 206 of the Senate amendment) from 25 per centum to 30 per centum. This minimum percentage applies with respect to vending machine income derived from machines not in direct competition with a blind vendor, where more than 50 per centum of the total hours worked occurs during periods other than normal working hours.

The conferees have amended proposed section 7(e) of the Act (in section 206 of the Senate amendment) to require the Secretary to establish a priority for the operation of a cafeteria by a blind licensee when he determines after consultation with the installation head, that such operation can be provided at a reasonable cost with high quality food comparable to that currently provided employees. This proposed change has been made in order to put to rest any fears expressed by Federal agencies or employees that a blind-operated cafeteria might somehow result in unreasonably higher food prices and lower quality food. Additional safeguards are set forth in the new language to eliminate any likelihood that such might occur.

SECTION 207. DEFINITIONS

The Senate amendment amends the definition section of the Randolph-Sheppard Act. The House bill contains no comparable provision. The House recedes with an amendment. The Conferees included a parenthetical to clarify that vending machine income, where machines are owned and operated within the Federal entity and not by a commercial vending concern, includes receipts after cost of goods sold, including reasonable service and maintenance costs.

SECTION 208. PERSONNEL

The Senate amendment require the assignment of ten personnel and authorizes a position in GS-16 to 18. The House bill contains no comparable provision. The House recedes.

SECTION 209. ADDITIONAL STATE RESPONSIBILITIES

The Senate amendment requires each State licensing agency to take certain actions to benefit blind licensees. The House bill contains no comparable provision. The House recedes.

SECTION 210. STANDARDS, STUDIES, AND REPORTS

The Senate amendment requires studies and evaluations of national standards for set-aside funds; feasibility of a centrally administered retirement and health system for blind vendors; method of assigning

vending machine income; and reports on implementation of amendments to the Act. The House bill contains no comparable provision. The House recedes.

SECTION 211. AUDIT

The Senate amendment authorizes the Comptroller General to audit all nonappropriated fund activities which have vending machine income. The House bill contains no comparable provision. The House recedes.

TITLE III—WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

SECTION 301. FINDINGS AND POLICY

The Senate amendment makes seven findings of fact leading up to a policy determination by the Congress that the Federal Government work jointly with the States and their citizens to develop recommendations and plans for action and solving the multi-fold problems facing individuals with handicaps. The House bill contains no comparable provision. The House recedes.

SECTION 302. AUTHORITY OF PRESIDENT, COUNCIL, AND SECRETARY

The Senate amendment authorizes the President to call a White House Conference on Handicapped Individuals within two years from the date of enactment of the title in order to stimulate a national assessment of problems facing individuals with handicaps and to develop recommendations to solve such problems. The House bill contains no comparable provision. The House recedes.

It is the intent of the conferees that implicit in the authority to convene the White House Conference is the authority on the part of the Council to provide, in advance or by way of reimbursement, for the travel expenses (including per diem in lieu of subsistence) for participants in the White House Conference who are not themselves Federal employees.

The Senate amendment establishes a National Planning and Advisory Council (composed of 28 persons, of whom 10 shall be individuals with handicaps, appointed to be representative of all individuals with handicaps, and 5 should be parents of individuals with handicaps, appointed to be representative of all such parents and individuals) for the Conference, to be appointed by the Secretary of Health, Education, and Welfare, to plan and conduct a conference; directs the Conference to bring together individuals with handicaps and their families, representatives from Federal, State, and local governments, and representatives of professional experts and of members of the general public who are recognized by individuals with handicaps as being knowledgeable about problems affecting their lives; and directs the conference to consider all related matters affecting the lives of handicapped individuals, specifically directing that consideration be given to various specific areas.

The House bill contains no comparable provision. The House recedes with amendments (1) adding to the specific areas to be considered.

the allotment of funds for basic vocational rehabilitation services under part B of title I of the Rehabilitation Act of 1973 in a fair and equitable manner in consideration of the factors set forth in section 407(a) of the Rehabilitation Act of 1973 regarding the scope of the State allocation study provided for in such section (specifically: the needs of individuals requiring vocational rehabilitation services; the financial capacity of the States to furnish vocational rehabilitation assistance, including (on a State-by-State basis) per capita income, per capita costs of services rendered, State tax rates, and the ability and willingness of a State to provide the non-Federal share of the costs of rendering such services; and the continuing demand upon the States to furnish vocational rehabilitation services (together with a consideration of the factor that no State shall receive less Federal financial assistance under such part than it received under section 2 of the Vocational Rehabilitation Act in the fiscal year immediately prior to the Rehabilitation Act of 1973)); (2) providing that employees of the planning Council shall not be paid in excess of the rate provided for GS-18 under the Civil Service Schedule; and (3) deleting any authority for the Council to pay any travel expenses for officers or employees of Federal departments, agencies, or instrumentalities.

The conferees intend that agencies, groups, and organizations receiving Federal assistance should generally not receive funds to cover the travel expenses (including per diem in lieu of subsistence) of their personnel participating in the White House conference, but rather should use non-White House Conference funds to defray these expenses. However, the conferees also recognize that exceptions to this general rule will be necessary for groups and organizations (such as consumer groups) which do not have the means to cover these expenses. Although the authority for the Council to pay any travel expenses for Federal employees has been deleted, the conferees note that it is their expectation that the Federal agency, department, or instrumentality concerned would cover such expenses for its officers and employees participating in the White House Conference or State conferences.

It is also the intention of the conferees that the Department of Health, Education, and Welfare will make all possible attempts to employ individuals with handicaps to carry out the provisions of this title, and that thereafter priority consideration by the Federal Government will be given to hiring, on a permanent basis, those individuals employed for this purpose who have demonstrated their merit and qualifications in the course of preparing for and carrying out White House Conference activities.

The conferees further intend that full use will be made of other available funds for Conference purposes, and that priority in expenditure of funds available for Conference activities will be given to pay the expenses of individuals with handicaps who will not otherwise be able to attend the Conference, and to provide such necessary support services as may assist such individuals in attending and participating fully in the Conference, (including brailled materials and readers for

blind individuals, interpreters and printed materials for deaf individuals, attendants for motor-impaired and physically handicapped individuals, and all such necessary equipment and adapted transportation services).

The Senate amendment provides that a final report be submitted to the President and the public by the Council and the Secretary not later than 120 days following the date on which the Conference is convened, and that recommendations for action by the Council and the Secretary of Health, Education, and Welfare be submitted to the President and Congress not later than 90 days after submission of the final report of the Conference. The House bill contains no comparable provision. The House recedes.

SECTION 303. RESPONSIBILITY OF COUNCIL AND SECRETARY

The Senate amendment directs the Council and the Secretary to request the cooperation and assistance of other appropriate Federal departments and agencies (including details and assignments of personnel from Federal agencies for whatever periods of time necessary), render financial and other assistance to the States to conduct conferences prior to the initial White House Conference, prepare and make available necessary materials to the White House Conference delegates, prepare and distribute interim reports, engage necessary individuals with handicaps and additional personnel, and employ individuals with handicaps in carrying out these functions under the provisions of the title. The House bill contains no comparable provision. The House recedes.

SECTION 305. STATE PARTICIPATION

The Senate amendment provides for grants to States to conduct at least one Conference within each State leading up to the White House Conference and provides that no State shall be apportioned more than \$75,000 nor less than \$25,000 for such purpose and for meeting the costs of such State's participation in the Conference program. The House bill contains no comparable provision. The House recedes with an amendment reducing the State allotment minimum to \$10,000 and the maximum to \$25,000.

SECTION 306. AUTHORIZATION OF APPROPRIATIONS

The Senate amendment authorizes the appropriation of such sums as may be necessary to carry out the provisions of the title, and provides that sums so appropriated shall remain available for expenditure until June 30, 1977. The House bill contains no comparable provision. The conference agreement authorizes the appropriation of \$2 million to carry out the provisions of the title and in addition authorizes the appropriation of such sums as may be necessary to carry out the State participation functions under section 305; and provides that sums appropriated for either of these purposes shall remain available for expenditure until June 30, 1977.

TITLE AMENDMENT

The Senate amendment amended the title of the House bill to reflect the provisions of the Senate bill. The conference agreement amends the title of the bill to reflect the provisions of the conference agreement.

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ALAN CRANSTON,
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BOB TAFT, Jr.,
DICK SCHWEIKER,
J. GLENN BEALL, Jr.,

Managers on the Part of the Senate.

CARL D. PERKINS,
JOHN BRADEMANS,
ALBERT H. QUIE,

Managers on the Part of the House.



Ninety-third Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-first day of January,
one thousand nine hundred and seventy-four*

An Act

To extend the authorizations of appropriations in the Rehabilitation Act of 1973 for one year, to transfer the Rehabilitation Services Administration to the Office of the Secretary of Health, Education, and Welfare, to make certain technical and clarifying amendments, and for other purposes; to amend the Randolph-Sheppard Act for the blind; to strengthen the program authorized thereunder; and to provide for the convening of a White House Conference on Handicapped Individuals.



SEC. 100. This title shall be known as the "Rehabilitation Act Amendments of 1974".

REHABILITATION SERVICES ADMINISTRATION

SEC. 101. (a) Section 3(a) of the Rehabilitation Act of 1973 is amended to read as follows:

"(a) There is established in the Office of the Secretary a Rehabilitation Services Administration which shall be headed by a Commissioner (hereinafter in this Act referred to as the 'Commissioner') appointed by the President by and with the advice and consent of the Senate. Except for titles IV and V and as otherwise specifically provided in this Act, such Administration shall be the principal agency, and the Commissioner shall be the principal officer, of such Department for carrying out this Act. In the performance of his functions, the Commissioner shall be directly responsible to the Secretary or to the Under Secretary or an appropriate Assistant Secretary of such Department, as designated by the Secretary. The functions of the Commissioner shall not be delegated to any officer not directly responsible, both with respect to program operation and administration, to the Commissioner."

(b) The amendment made by subsection (a) of this section shall be effective sixty days after the date of enactment of this Act.

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL REHABILITATION SERVICES

SEC. 102. (a) Section 100(b) of such Act is amended by—

(1) striking out "and" after "1974," in paragraph (1) and inserting before the period at the end of such paragraph a comma and "and \$720,000,000 for the fiscal year ending June 30, 1976"; and

(2) striking out "and" after "1974," in the first sentence of paragraph (2) and inserting after "1975," in such sentence "and \$42,000,000 for the fiscal year ending June 30, 1976;"

(b) Section 112(a) of such Act is amended by striking out "and" after "1974," and by inserting "and up to \$2,500,000 but no less than \$1,000,000 for the fiscal year ending June 30, 1976," after "1975,"

(c) Section 121(b) of such Act is amended by striking out "1976" and inserting in lieu thereof "1977".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR RESEARCH AND TRAINING

SEC. 103. Section 201(a) of such Act is amended by—

(1) striking out "and" after "1974," in the first sentence of paragraph (1) and inserting after "1975" in such sentence a comma and "and \$32,000,000 for the fiscal year ending June 30, 1976";

(2) striking out the comma after "20 per centum" in the second sentence of paragraph (1) and inserting after "respectively,"

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in such sentence "and 25 per centum of the amounts appropriated in each succeeding fiscal year"; and

(3) striking out "there is authorized to be appropriated" in paragraph (2) and inserting after "1975" in such paragraph a comma and "and \$32,000,000 for the fiscal year ending June 30, 1976".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR GRANTS FOR
CONSTRUCTION OF REHABILITATION FACILITIES

SEC. 104. Section 301(a) of such Act is amended by—

(1) striking out "and" after "1974," in the first sentence and inserting before the period at the end of such sentence a comma and "and June 30, 1976"; and

(2) striking out "1977" in the last sentence and inserting in lieu thereof "1978".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR VOCATIONAL
TRAINING SERVICES FOR HANDICAPPED INDIVIDUALS

SEC. 105. Section 302(a) of such Act is amended by striking out "and" after "1974," and by inserting after "1975" a comma and "and June 30, 1976".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL
PROJECTS AND DEMONSTRATIONS

SEC. 106. Section 304(a)(1) of such Act is amended by striking out "and" after "1974," and by inserting after "1975" a comma and "and \$20,000,000 for the fiscal year ending June 30, 1976".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL
CENTER FOR DEAF-BLIND YOUTHS AND ADULTS

SEC. 107. Section 305(a) of such Act is amended by striking out "and" after "1974," and by inserting after "1975" a comma and "and June 30, 1976".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM AND
PROJECT EVALUATION

SEC. 108. Section 403 of such Act is amended by striking out "and" after "1974," and by inserting after "1975," the following: "and June 30, 1976".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR
SECRETARIAL RESPONSIBILITIES

SEC. 109. Section 405(d) of such Act is amended by inserting before the period a comma and "and \$600,000 for the fiscal year ending June 30, 1976".

EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR ARCHITECTURAL
AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SEC. 110. Section 502(h) of such Act is amended by inserting before the period at the end thereof a comma and "and \$1,500,000 for the fiscal year ending June 30, 1976".

MISCELLANEOUS AMENDMENTS

SEC. 111. (a) Section 7(6) of such Act is amended by adding at the end thereof the following new sentence: "For the purposes of titles IV and V of this Act, such term means any person who (A) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (B) has a record of such an impairment, or (C) is regarded as having such an impairment."

(b) Section 101(a)(6) of such Act is amended by adding at the end thereof before the semicolon "(including a requirement that the State agency and facilities in receipt of assistance under this title shall take affirmative action to employ and advance in employment qualified handicapped individuals covered under, and on the same terms and conditions as set forth in, section 503)".

(c) Section 101(a)(9)(C) of such Act is amended by adding at the end thereof before the semicolon "in such detail as required by the Secretary in order for him to analyze and evaluate annually the reasons for and numbers of such ineligibility determinations as part of his responsibilities under section 401, and that the State agency will at least annually categorize and analyze such reasons and numbers and report this information to the Secretary and will, not later than 12 months after each such determination, review each such ineligibility determination in accordance with the criteria set forth in section 102".

(d) Section 101(a)(15) of such Act is amended by inserting after "facilities" at the end of the parenthetical "and review of the efficacy of the criteria employed with respect to ineligibility determinations described in subclause (C) of clause (9) of this subsection".

(e) Section 102 of such Act is amended by—

(1) inserting in subsection (a) after "program" where it first appears in the first sentence a comma and "or the specification of reasons for a determination of ineligibility prior to initiation of such program based on preliminary diagnosis," and inserting at the end of the second sentence of such subsection before the period a comma and "and, as appropriate, such specification of reasons for such an ineligibility determination shall set forth the rights and remedies, including recourse to the process set forth in subsection (b)(5) of this section, available to the individual in question";

(2) striking out in subsection (c) all of clause (1) from "in" the first time it appears through "primary" and inserting in lieu thereof "in making any determination of ineligibility referred to in subsection (a) of this section, or in developing and carrying out the individualized written rehabilitation program required by section 101 in the case of each handicapped individual,";

(3) striking out in clause (2) of subsection (c) "program, that the evaluation of rehabilitation potential" and inserting in lieu thereof "program, or as a part of the specification of reasons for an ineligibility determination, as appropriate, that the preliminary diagnosis or evaluation of rehabilitation potential, as appropriate,"; and

(4) inserting in clause (3) of subsection (c) a comma and "as an amendment to such written program," after "decision".

(f) Section 112(a) is amended by—

(1) striking out "an amount equal to the amount obligated for expenditure for carrying out such projects and demonstrations for appropriations under the Vocational Rehabilitation Act in

the fiscal year ending June 30, 1973," and inserting in lieu thereof "\$11,860,000"; and

(2) adding at the end thereof a new sentence as follows: "In the event that funds so appropriated under section 304 do not exceed \$11,860,000 in any fiscal year, the Secretary is authorized to utilize such funds to carry out this section".

(g) Section 130(b) of such Act is amended by striking out "February 1, 1975" and inserting in lieu thereof "June 30, 1975".

(h) Section 202(a) of such Act is amended by striking out "and analyses" in the penultimate clause and inserting in lieu thereof a comma and "analyses, and demonstrations".

(i) Section 304(b) of such Act is amended by—

(1) striking out "and" before "(2)" in the first sentence, and inserting at the end of such sentence before the period a comma and "and (3) for operating programs (including renovation and construction of facilities, where appropriate) to demonstrate methods of making recreational activities fully accessible to handicapped individuals"; and

(2) striking out "for" the third time it appears in the parenthetical in clause (2) in the first sentence and inserting in lieu thereof "or".

(j) Section 304(c) of such Act is amended by inserting after "Labor," in the first sentence "who".

(k) Section 304(e) (1) of such Act is amended by inserting after "(B)" the following: "with the concurrence of the Board established by section 502,".

(1) (1) Section 306(b) of such Act is amended by inserting after "project" a comma and "or for a project which involves construction,".

(2) Section 306(b) (4) of such Act is amended by inserting after "specifications" the following: "which have been approved by the Board established by section 502,".

(m) Section 405(c) of such Act is amended by—

(1) striking out "the Handicapped" and inserting in lieu thereof "Handicapped Individuals"; and

(2) by adding at the end thereof the following new sentence: "In no event shall any functions under this section be further delegated to any persons with operational responsibilities for carrying out functions authorized under any other section of this Act or under any other provision of law designed to benefit handicapped individuals.".

(n) (1) Section 502(a) of such Act is amended by redesignating clauses (6), (7), and (8) thereof as clauses (7), (8), and (9), respectively, and by inserting immediately after clause (5) the following new clause:

"(6) Department of Defense;".

(2) Section 502(a) of such Act is further amended by adding at the end thereof the following new sentence: "The Secretary of Health, Education, and Welfare shall be the Chairman of the Board, and the Board shall appoint, upon recommendation of the Secretary, a Consumer Advisory Panel, a majority of the members of which shall be handicapped individuals, to provide guidance, advice, and recommendations to the Board in carrying out its functions.".

(o) (1) Section 502(d) of such Act is amended by striking out "section, the Board" in the first sentence and inserting in lieu thereof "Act, the Board shall, directly or through grants to or contracts with public or private nonprofit organizations, carry out its functions under subsections (b) and (c) of this section, and".

(2) Section 502(d) of such Act is further amended by adding at the end thereof the following new sentences: "Any such order affecting any Federal department, agency, or instrumentality of the United States shall be final and binding on such department, agency, or instrumentality. An order of compliance may include the withholding or suspension of Federal funds with respect to any building found not to be in compliance with standards prescribed pursuant to the Acts cited in subsection (b) of this section."

(p) Section 502(e) of such Act is amended by adding before the first sentence the following new first sentence: "There shall be appointed by the Board an executive director and such other professional and clerical personnel as are necessary to carry out its functions under this Act."

(q) Section 502(g) of such Act is amended by striking out in the penultimate sentence "prior to January 1" and inserting in lieu thereof "not later than September 30".

TITLE II—RANDOLPH-SHEPPARD ACT AMENDMENTS

SHORT TITLE

SEC. 200. This title may be cited as the "Randolph-Sheppard Act Amendments of 1974".

FINDINGS

SEC. 201. The Congress finds—

(1) after review of the operation of the blind vending stand program authorized under the Randolph-Sheppard Act of June 20, 1936, that the program has not developed, and has not been sustained, in the manner and spirit in which the Congress intended at the time of its enactment, and that, in fact, the growth of the program has been inhibited by a number of external forces;

(2) that the potential exists for doubling the number of blind operators on Federal and other property under the Randolph-Sheppard program within the next five years, provided the obstacles to growth are removed, that legislative and administrative means exist to remove such obstacles, and that Congress should adopt legislation to that end; and

(3) that at a minimum the following actions must be taken to insure the continued vitality and expansion of the Randolph-Sheppard program—

(A) establish uniformity of treatment of blind vendors by all Federal departments, agencies, and instrumentalities,

(B) establish guidelines for the operation of the program by State licensing agencies,

(C) require coordination among the several entities with responsibility for the program,

(D) establish a priority for vending facilities operated by blind vendors on Federal property,

(E) establish administrative and judicial procedures under which fair treatment of blind vendors, State licensing agencies, and the Federal Government is assured,

(F) require stronger administration and oversight functions in the Federal office carrying out the program, and

(G) accomplish other legislative and administrative objectives which will permit the Randolph-Sheppard program to flourish.

OPERATION OF VENDING FACILITIES ON FEDERAL PROPERTY

SEC. 202. The first section of the Act entitled "An Act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes" (hereafter referred to in this title as the "Randolph-Sheppard Act"), approved June 20, 1936, as amended (20 U.S.C. 107), is amended by striking out all after the enacting clause and inserting in lieu thereof the following:

"That (a) for the purposes of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting, blind persons licensed under the provisions of this Act shall be authorized to operate vending facilities on any Federal property.

"(b) In authorizing the operation of vending facilities on Federal property, priority shall be given to blind persons licensed by a State agency as provided in this Act; and the Secretary, through the Commissioner, shall, after consultation with the Administrator of General Services and other heads of departments, agencies, or instrumentalities of the United States in control of the maintenance, operation, and protection of Federal property, prescribe regulations designed to assure that—

"(1) the priority under this subsection is given to such licensed blind persons (including assignment of vending machine income pursuant to section 7 of this Act to achieve and protect such priority), and

"(2) wherever feasible, one or more vending facilities are established on all Federal property to the extent that any such facility or facilities would not adversely affect the interests of the United States.

Any limitation on the placement or operation of a vending facility based on a finding that such placement or operation would adversely affect the interests of the United States shall be fully justified in writing to the Secretary, who shall determine whether such limitation is justified. A determination made by the Secretary pursuant to this provision shall be binding on any department, agency, or instrumentality of the United States affected by such determination. The Secretary shall publish such determination, along with supporting documentation, in the Federal Register."

FEDERAL AND STATE RESPONSIBILITIES

SEC. 203. (a) (1) Section 2(a) of the Randolph-Sheppard Act is amended by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively, and by inserting the following new paragraph (1):

"(1) Insure that the Rehabilitation Services Administration is the principal agency for carrying out this Act; and the Commissioner shall, within one hundred and eighty days after enactment of the Randolph-Sheppard Act Amendments of 1974, establish requirements for the uniform application of this Act by each State agency designated under paragraph (5) of this subsection, including appropriate accounting procedures, policies on the selection and establishment of new vending facilities, distribution of income to blind vendors, and the use and control of set-aside funds under section 3(3) of this Act;"

(2) Section 2(a) (2) of such Act, as redesignated by paragraph (1) of this subsection, is amended to read as follows:

"(2) Through the Commissioner, make annual surveys of concession vending opportunities for blind persons on Federal and other property in the United States, particularly with respect to Federal property under the control of the General Services Administration, the Department of Defense, and the United States Postal Service;"

(3) Section 2(a) (5) of such Act, as redesignated by paragraph (1) of this subsection, is amended—

(A) by striking out "commission" each place it appears and inserting in lieu thereof "agency",

(B) by striking out "and at least twenty-one years of age",

(C) by striking out "articles dispensed automatically or in containers or wrapping in which they are placed before receipt by the vending stand, and such other articles as may be approved for each property by the department or agency in control of the maintenance, operation, and protection thereof and the State licensing agency in accordance with the regulations prescribed pursuant to the first section" and inserting in lieu thereof the following: "foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, as determined by the State licensing agency, and including the vending or exchange of chances for any lottery authorized by State law and conducted by an agency of a State",

(D) by striking out "stands" and "stand" and inserting in lieu thereof "facilities" and "facility", respectively, and

(E) by striking out the colon and all matter following the colon, and inserting in lieu thereof "; and".

(4) Section 2(a) (6) of such Act, as redesignated by paragraph (1) of this subsection, is amended to read as follows:

"(6) Through the Commission, (A) conduct periodic evaluations of the program authorized by this Act, including upward mobility and other training required by section 8, and annually submit to the appropriate committees of Congress a report based on such evaluations, and (B) take such other steps, including the issuance of such rules and regulations, as may be necessary or desirable in carrying out the provisions of this Act."

(b) Section 2(b) of such Act is amended—

(1) by striking out "stand" the first time it appears in the first sentence and where it appears in the second sentence and inserting in lieu thereof "facility";

(2) by striking out "and have resided for at least one year in the State in which such stand is located"; and

(3) by striking out "but are able, in spite of such infirmity, to operate such stands".

(c) Section 2(c) of such Act is amended by striking out "stand" in each place in which it appears and inserting in lieu thereof "facility".

(d) Section 2 of such Act is further amended by adding at the end thereof the following new subsections:

"(d) (1) After January 1, 1975, no department, agency, or instrumentality of the United States shall undertake to acquire by ownership, rent, lease, or to otherwise occupy, in whole or in part, any building unless, after consultation with the head of such department, agency, or instrumentality and the State licensing agency, it is determined by the Secretary that (A) such building includes a satisfactory site or sites for the location and operation of a vending facility by a blind person, or (B) if a building is to be constructed, substantially altered, or renovated, or in the case of a building that is already occupied on such date by such department, agency, or instrumentality,

is to be substantially altered or renovated for use by such department, agency, or instrumentality, the design for such construction, substantial alteration, or renovation includes a satisfactory site or sites for the location and operation of a vending facility by a blind person. Each such department, agency, or instrumentality shall provide notice to the appropriate State licensing agency of its plans for occupation, acquisition, renovation, or relocation of a building adequate to permit such State agency to determine whether such building includes a satisfactory site or sites for a vending facility.

“(2) The provisions of paragraph (1) shall not apply (A) when the Secretary and the State licensing agency determine that the number of people using the property is or will be insufficient to support a vending facility, or (B) to any privately owned building, any part of which is leased by any department, agency, or instrumentality of the United States and in which, (i) prior to the execution of such lease, the lessor or any of his tenants had in operation a restaurant or other food facility in a part of the building not included in such lease, and (ii) the operation of such a vending facility by a blind person would be in proximate and substantial direct competition with such restaurant or other food facility, except that each such department, agency, and instrumentality shall make every effort to lease property in privately owned buildings capable of accommodating a vending facility.

“(3) For the purposes of this subsection, the term ‘satisfactory site’ means an area determined by the Secretary to have sufficient space, electrical and plumbing outlets, and such other facilities as the Secretary may by regulation prescribe, for the location and operation of a vending facility by a blind person.

“(e) In any State having an approved plan for vocational rehabilitation pursuant to the Vocational Rehabilitation Act or the Rehabilitation Act of 1973 (Public Law 93-112), the State licensing agency designated under paragraph (5) of subsection (a) of this section shall be the State agency designated under section 101(a)(1)(A) of such Rehabilitation Act of 1973.”

DUTIES OF STATE LICENSING AGENCIES AND ARBITRATION

SEC. 204. (a) Section 3 of the Randolph-Sheppard Act is amended—

(1) by striking out “commission” and inserting in lieu thereof “agency”;

(2) by striking out in paragraphs (2) and (3) “stand” and “stands” wherever such terms appear and inserting in lieu thereof “facility” and “facilities”, respectively; and

(3) by striking out in paragraph (6) the word “stand” and inserting in lieu thereof “facility”, and, by inserting immediately before the period the following: “, and to agree to submit the grievances of any blind licensee not otherwise resolved by such hearing to arbitration as provided in section 5 of this Act”.

(b) Section 3(3) of such Act is further amended by striking out “and” immediately before subparagraph (D) and by inserting immediately before the colon at the end of such subparagraph the following “; and (E) retirement or pension funds, health insurance contributions, and provision for paid sick leave and vacation time, if it is determined by a majority vote of blind licensees licensed by such State agency, after such agency provides to each such licensee full information on all matters relevant to such proposed program, that funds under this paragraph shall be set aside for such purposes”.

(c) Section 3(3) of such Act is further amended by inserting before the word “proceeds” in both places it appears, the word “net”.

REPEALS

SEC. 205. Sections 4 and 7 of the Randolph-Sheppard Act are repealed.

ARBITRATION; VENDING MACHINE INCOME; PERSONNEL; TRAINING

SEC. 206. The Randolph-Sheppard Act is further amended by redesignating sections 5, 6, and 8, as sections 4, 9, and 10, respectively, and by inserting immediately after section 4, as redesignated, the following new sections:

"SEC. 5. (a) Any blind licensee who is dissatisfied with any action arising from the operation or administration of the vending facility program may submit to a State licensing agency a request for a full evidentiary hearing, which shall be provided by such agency in accordance with section 3(6) of this Act. If such blind licensee is dissatisfied with any action taken or decision rendered as a result of such hearing, he may file a complaint with the Secretary who shall convene a panel to arbitrate the dispute pursuant to section 6 of this Act, and the decision of such panel shall be final and binding on the parties except as otherwise provided in this Act.

"(b) Whenever any State licensing agency determines that any department, agency, or instrumentality of the United States that has control of the maintenance, operation, and protection of Federal property is failing to comply with the provisions of this Act or any regulations issued thereunder (including a limitation on the placement or operation of a vending facility as described in section 1(b) of this Act and the Secretary's determination thereon) such licensing agency may file a complaint with the Secretary who shall convene a panel to arbitrate the dispute pursuant to section 6 of this Act, and the decision of such panel shall be final and binding on the parties except as otherwise provided in this Act.

"SEC. 6. (a) Upon receipt of a complaint filed under section 5 of this Act, the Secretary shall convene an ad hoc arbitration panel as provided in subsection (b). Such panel shall, in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, give notice, conduct a hearing, and render its decision which shall be subject to appeal and review as a final agency action for purposes of chapter 7 of such title 5.

"(b) (1) The arbitration panel convened by the Secretary to hear grievances of blind licensees shall be composed of three members appointed as follows:

"(A) one individual designated by the State licensing agency;

"(B) one individual designated by the blind licensee; and

"(C) one individual, not employed by the State licensing agency or, where appropriate, its parent agency, who shall serve as chairman, jointly designated by the members appointed under subparagraphs (A) and (B).

If any party fails to designate a member under subparagraph (1) (A), (B), or (C), the Secretary shall designate such member on behalf of such party.

"(2) The arbitration panel convened by the Secretary to hear complaints filed by a State licensing agency shall be composed of three members appointed as follows:

"(A) one individual, designated by the State licensing agency;

"(B) one individual, designated by the head of the Federal department, agency, or instrumentality controlling the Federal property over which the dispute arose; and

"(C) one individual, not employed by the Federal department, agency, or instrumentality controlling the Federal property over

which the dispute arose, who shall serve as chairman, jointly designated by the members appointed under subparagraphs (A) and (B).

If any party fails to designate a member under subparagraph (2) (A), (B), or (C), the Secretary shall designate such member on behalf of such party. If the panel appointed pursuant to paragraph (2) finds that the acts or practices of any such department, agency, or instrumentality are in violation of this Act, or any regulation issued thereunder, the head of any such department, agency, or instrumentality shall cause such acts or practices to be terminated promptly and shall take such other action as may be necessary to carry out the decision of the panel.

“(c) The decisions of a panel convened by the Secretary pursuant to this section shall be matters of public record and shall be published in the Federal Register.

“(d) The Secretary shall pay all reasonable costs of arbitration under this section in accordance with a schedule of fees and expenses he shall publish in the Federal Register.

“SEC. 7. (a) In accordance with the provisions of subsection (b) of this section, vending machine income obtained from the operation of vending machines on Federal property shall accrue (1) to the blind licensee operating a vending facility on such property, or (2) in the event there is no blind licensee operating such facility on such property, to the State agency in whose State the Federal property is located, for the uses designated in subsection (c) of this section, except that with respect to income which accrues under clause (1) of this subsection, the Commissioner may prescribe regulations imposing a ceiling on income from such vending machines for an individual blind licensee. In the event such a ceiling is imposed, no blind licensee shall receive less vending machine income under such ceiling than he was receiving on January 1, 1974. No limitation shall be imposed on income from vending machines, combined to create a vending facility, which are maintained, serviced, or operated by a blind licensee. Any amounts received by a blind licensee that are in excess of the amount permitted to accrue to him under any ceiling imposed by the Commissioner shall be disbursed to the appropriate State agency under clause (2) of this subsection and shall be used by such agency in accordance with subsection (c) of this section.

“(b) (1) After January 1, 1975, 100 per centum of all vending machine income from vending machines on Federal property which are in direct competition with a blind vending facility shall accrue as specified in subsection (a) of this section. ‘Direct competition’ as used in this section means the existence of any vending machines or facilities operated on the same premises as a blind vending facility except that vending machines or facilities operated in areas serving employees the majority of whom normally do not have direct access to the blind vending facility shall not be considered in direct competition with the blind vending facility. After January 1, 1975, 50 per centum of all vending machine income from vending machines on Federal property which are not in direct competition with a blind vending facility shall accrue as specified in subsection (a) of this section, except that with respect to Federal property at which at least 50 per centum of the total hours worked on the premises occurs during periods other than normal working hours, 30 per centum of such income shall so accrue.

“(2) The head of each department, agency, and instrumentality of the United States shall insure compliance with this section with respect to buildings, installations, and facilities under his control, and shall be responsible for collection of, and accounting for, such vending machine income.

“(c) All vending machine income which accrues to a State licensing agency pursuant to subsection (a) of this section shall be used to establish retirement or pension plans, for health insurance contributions, and for provision of paid sick leave and vacation time for blind licensees in such State, subject to a vote of blind licensees as provided under section 3(3)(E) of this Act. Any vending machine income remaining after application of the first sentence of this subsection shall be used for the purposes specified in sections 3(3)(A), (B), (C), and (D) of this Act, and any assessment charged to blind licensees by a State licensing agency shall be reduced pro rata in an amount equal to the total of such remaining vending machine income.

“(d) Subsections (a) and (b)(1) of this section shall not apply to income from vending machines within retail sales outlets under the control of exchange or ships’ stores systems authorized by title 10, United States Code, or to income from vending machines operated by the Veterans Canteen Service, or to income from vending machines not in direct competition with a blind vending facility at individual locations, installations, or facilities on Federal property the total of which at such individual locations, installations, or facilities does not exceed \$3,000 annually.

“(e) The Secretary, through the Commissioner, shall prescribe regulations to establish a priority for the operation of cafeterias on Federal property by blind licensees when he determines, on an individual basis and after consultation with the head of the appropriate installation, that such operation can be provided at a reasonable cost with food of a high quality comparable to that currently provided to employees, whether by contract or otherwise.

“(f) This section shall not operate to preclude preexisting or future arrangements, or regulations of departments, agencies, or instrumentalities of the United States, under which blind licensees receive a greater percentage or amount of vending machine income than that specified in subsection (b)(1) of this section, or (2) receive vending machine income from individual locations, installations, or facilities on Federal property the total of which at such individual locations, installations, or facilities does not exceed \$3,000 annually.

“(g) The Secretary shall take such action and promulgate such regulations as he deems necessary to assure compliance with this section.

“SEC. 8. The Commissioner shall insure, through promulgation of appropriate regulations, that uniform and effective training programs, including on-the-job training, are provided for blind individuals, through services under the Rehabilitation Act of 1973 (Public Law 93-112). He shall further insure that State agencies provide programs for upward mobility (including further education and additional training or retraining for improved work opportunities) for all trainees under this Act, and that follow-along services are provided to such trainees to assure that their maximum vocational potential is achieved.”

DEFINITIONS

SEC. 207. Section 9 of the Randolph-Sheppard Act, as redesignated by section 206 of this title, is amended to read as follows:

“SEC. 9. As used in the Act—

“(1) ‘blind person’ means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty degrees. In determining whether an individual is blind, there shall be an examination by a physician skilled in diseases of the

eye, or by an optometrist, whichever the individual shall select:

"(2) 'Commissioner' means the Commissioner of the Rehabilitation Services Administration;

"(3) 'Federal property' means any building, land, or other real property owned, leased, or occupied by any department, agency, or instrumentality of the United States (including the Department of Defense and the United States Postal Service), or any other instrumentality wholly owned by the United States, or by any department or agency of the District of Columbia or any territory or possession of the United States;

"(4) 'Secretary' means the Secretary of Health, Education, and Welfare;

"(5) 'State' means a State, territory, possession, Puerto Rico, or the District of Columbia;

"(6) 'United States' includes the several States, territories, and possessions of the United States, Puerto Rico, and the District of Columbia;

"(7) 'vending facility' means automatic vending machines, cafeterias, snack bars, cart service, shelters, counters, and such other appropriate auxiliary equipment as the Secretary may by regulation prescribe as being necessary for the sale of the articles or services described in section 2(a)(5) of this Act and which may be operated by blind licensees; and

"(8) 'vending machine income' means receipts (other than those of a blind licensee) from vending machine operations on Federal property, after cost of goods sold (including reasonable service and maintenance costs), where the machines are operated, serviced, or maintained by, or with the approval of, a department, agency, or instrumentality of the United States, or commissions paid (other than to a blind licensee) by a commercial vending concern which operates, services, and maintains vending machines on Federal property for, or with the approval of, a department, agency, or instrumentality of the United States."

PERSONNEL

SEC. 208. (a) The Secretary of Health, Education, and Welfare is directed to assign to the Office for the Blind and Visually Handicapped of the Rehabilitation Services Administration of the Department of Health, Education, and Welfare ten additional full-time personnel (or their equivalent), five of whom shall be supportive personnel, to carry out duties related to the administration of the Randolph-Sheppard Act.

(b) Section 5108(c) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (10);

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (11) the following new paragraph:

"(12) the Secretary of Health, Education, and Welfare, subject to the standards and procedures prescribed by this chapter, may place one additional position in the Office for the Blind and Visually Handicapped of the Rehabilitation Services Administration in GS-16, GS-17, or GS-18."

(c) In selecting personnel to fill any position under this section, the Secretary of Health, Education, and Welfare shall give preference to blind individuals.

(d) Section 4(b) of the Randolph-Sheppard Act, as redesignated by section 206 of this title, is amended by striking out ", and at least 50 per centum of such additional personnel shall be blind persons".

ADDITIONAL STAFF RESPONSIBILITIES

SEC. 209. In addition to other requirements imposed in this title and in the Randolph-Sheppard Act upon State licensing agencies, such agencies shall—

- (1) provide to each blind licensee access to all relevant financial data, including quarterly and annual financial reports, on the operation of the State vending facility program;
- (2) conduct the biennial election of a Committee of Blind Vendors who shall be fully representative of all blind licensees in the State program, and
- (3) insure that such committee's responsibilities include (A) participation, with the State agency, in major administrative decisions and policy and program development, (B) receiving grievances of blind licensees and serving as advocates for such licensees, (C) participation, with the State agency, in the development and administration of a transfer and promotion system for blind licensees, (D) participation, with the State agency, in developing training and retraining programs, and (E) sponsorship, with the assistance of the State agency, of meetings and instructional conferences for blind licensees.

STANDARDS, STUDIES, AND REPORTS

SEC. 210. (a) The Secretary, through the Commissioner, after a period of study not to exceed six months following the date of enactment of this title, and after full consultation with, and full consideration of the views of, blind vendors and State licensing agencies, shall promulgate national standards for funds set aside pursuant to section 3(3) of the Randolph-Sheppard Act which include maximum and minimum amounts for such funds, and appropriate contributions, if any, to such funds by blind vendors.

(b)(1) The Secretary shall study the feasibility and desirability of establishing a nationally administered retirement, pension, and health insurance system for blind licensees, and such study shall include, but not be limited to, consideration of eligibility standards, amounts and sources of contributions, number of potential participants, total costs, and alternative forms of administration, including trust funds and revolving funds.

(2) The Secretary shall, within one year following the date of enactment of this title, complete the study required by paragraph (1) of this subsection and report his findings, together with any recommendations, to the President and the Congress.

(c) The Secretary shall, not later than September 30, 1975, complete an evaluation of the method of assigning vending machine income under section 7(b)(1) of the Randolph-Sheppard Act, including its effect on the growth of the program authorized by the Act, and on the operation of nonappropriated fund activities, and within thirty days thereafter he shall report his findings, together with any recommendations, to the appropriate committees of the Congress.

(d) Each State licensing agency shall, within one year following the date of enactment of this title, submit to the Secretary a report, with appropriate supporting documentation, which shows the actions taken by such agency to meet the requirements of section 2(a)(1) of the Randolph-Sheppard Act.

AUDIT

SEC. 211. The Comptroller General is authorized to conduct regular and periodic audits of all nonappropriated fund activities which receive income from vending machines on Federal property, under

such rules and regulations as he may prescribe. In the conduct of such audits he and his duly authorized representatives shall have access to any relevant books, documents, papers, accounts, and records of such activities as he deems necessary.

TITLE III—WHITE HOUSE CONFERENCE ON HANDICAPPED INDIVIDUALS

SHORT TITLE

SEC. 300. This title may be cited as the "White House Conference on Handicapped Individuals Act".

FINDINGS AND POLICY

SEC. 301. The Congress finds that—

(1) the United States has achieved great and satisfying success in making possible a better quality of life for a large and increasing percentage of our population;

(2) the benefits and fundamental rights of this society are often denied those individuals with mental and physical handicaps;

(3) there are seven million children and at least twenty-eight million adults with mental or physical handicaps;

(4) it is of critical importance to this Nation that equality of opportunity, equal access to all aspects of society and equal rights guaranteed by the Constitution of the United States be provided to all individuals with handicaps;

(5) the primary responsibility for meeting the challenge and problems of individuals with handicaps has often fallen on the individual or his family;

(6) it is essential that recommendations be made to assure that all individuals with handicaps are able to live their lives independently and with dignity, and that the complete integration of all individuals with handicaps into normal community living, working, and service patterns be held as the final objective; and

(7) all levels of Government must necessarily share responsibility for developing opportunities for individuals with handicaps;

and it is therefore the policy of the Congress that the Federal Government work jointly with the States and their citizens to develop recommendations and plans for action in solving the multifold problems facing individuals with handicaps.

AUTHORITY OF PRESIDENT, COUNCIL, AND SECRETARY

SEC. 302. (a) The President is authorized to call a White House Conference on Handicapped Individuals not later than two years after the date of enactment of this title in order to develop recommendations and stimulate a national assessment of problems, and solutions to such problems, facing individuals with handicaps. Such a conference shall be planned and conducted under the direction of the National Planning and Advisory Council, established pursuant to subsection (b) of this section, and the Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") and each Federal department and agency shall provide such cooperation and assistance to the Council, including the assignment of personnel, as may reasonably be required by the Secretary.

(b)(1) There is established a National Planning and Advisory Council (in this title referred to as the "Council"), appointed by the

Secretary, composed of twenty-eight members of whom not less than ten shall be individuals with handicaps appointed to represent all individuals with handicaps, and five shall be parents of individuals with handicaps appointed to represent all such parents and individuals. The Council shall provide guidance and planning for the Conference.

(2) Any member of the Council who is otherwise employed by the Federal Government shall serve without compensation in addition to that received in his regular employment.

(3) Members of the Council, other than those referred to in paragraph (1), shall receive compensation at rates not to exceed the daily rate prescribed for GS-18 under section 5332, title 5, United States Code, for each day they are engaged in the performance of their duties (including traveltime); and, while so serving away from their homes or regular places of business, they shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703, title 5, United States Code, for persons in Government service employed intermittently.

(4) Such Council shall cease to exist one-hundred and twenty days after the submission of the final report required by section 302(e).

(c) For the purpose of ascertaining facts and making recommendations concerning the utilization of skills, experience, and energies, and the improvement of the conditions of individuals with handicaps, the Conference shall bring together individuals with handicaps and members of their families and representatives of Federal, State, and local governments, professional experts, and members of the general public recognized by individuals with handicaps as being knowledgeable about problems affecting their lives.

(d) Participants in the White House Conference, and in conferences and other activities leading up to the White House Conference at the local and State level are authorized to consider all matters related to the purposes of the Conference set forth in subsection (a), but shall give special consideration to recommendations for:

(1) providing education, health, and diagnostic services for all children early in life so that handicapping conditions may be discovered and treated;

(2) assuring that every individual with a handicap receives appropriately designed benefits of the educational system;

(3) assuring that individuals with handicaps have available to them all special services and assistance which will enable them to live their lives as fully and independently as possible;

(4) enabling individuals with handicaps to have access to usable communication services and devices at costs comparable to other members of the population;

(5) assuring that individuals with handicaps will have maximum mobility to participate in all aspects of society, including access to all publicly-assisted transportation services and, when necessary, alternative means of transportation at comparable cost;

(6) improving utilization and adaptation of modern engineering and other technology to ameliorate the impact of handicapping conditions on the lives of individuals and especially on their access to housing and other structures;

(7) assuring individuals with handicaps of equal opportunity with others to engage in gainful employment;

(8) enabling individuals with handicaps to have incomes sufficient for health and for participation in family and community life as self-respecting citizens;

- (9) increasing research relating to all aspects of handicapping conditions, stressing the elimination of causes of handicapping conditions and the amelioration of the effects of such conditions;
 - (10) assuring close attention and assessment of all aspects of diagnosis and evaluation of individuals with handicaps;
 - (11) assuring review and evaluation of all governmental programs in areas affecting individuals with handicaps, and a close examination of the public role in order to plan for the future;
 - (12) resolving the special problems of veterans with handicaps;
 - (13) resolving the problems of public awareness and attitudes that restrict individuals with handicaps from participating in society to their fullest extent;
 - (14) resolving the special problems of individuals with handicaps who are homebound or institutionalized;
 - (15) resolving the special problems of individuals with handicaps who have limited English-speaking ability;
 - (16) allotting funds for basic vocational rehabilitation services under part B of title I of the Rehabilitation Act of 1973 in a fair and equitable manner in consideration of the factors set forth in section 407(a) of such Act; and
 - (17) promoting other related matters for individuals with handicaps.
- (e) A final report of the White House Conference on Handicapped Individuals shall be submitted by the Council to the President not later than one hundred and twenty days following the date on which the conference is called, and the findings and recommendations included therein shall be immediately made available to the public. The Council and the Secretary shall, within ninety days after the submission of such final report, transmit to the President and the Congress their recommendations for administrative action and legislation necessary to implement the recommendations contained in such report.

RESPONSIBILITIES OF COUNCIL AND SECRETARY

SEC. 303. (a) In carrying out the provisions of this title, the Council and the Secretary shall—

- (1) request the cooperation and assistance of such other Federal departments and agencies as may be appropriate, including Federal advisory bodies having responsibilities in areas affecting individuals with handicaps;
 - (2) render all reasonable assistance, including financial assistance, to the States in enabling them to organize and conduct conferences on handicapped individuals prior to the White House Conference on Handicapped Individuals;
 - (3) prepare and make available necessary background materials for the use of delegates to the White House Conference on Handicapped Individuals;
 - (4) prepare and distribute such interim reports of the White House Conference on Handicapped Individuals as may be appropriate; and
 - (5) engage such individuals with handicaps and additional personnel as may be necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive civil service, and without regard to chapter 57 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; but at rates of pay not to exceed the rate prescribed for GS-18 under section 5332 of such title.
- (b) In carrying out the provisions of this title, the Secretary shall employ individuals with handicaps.

DEFINITION

SEC. 304. For the purpose of this title, the term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

STATE PARTICIPATION

SEC. 305. (a) From the sums appropriated pursuant to section 306 the Secretary is authorized to make a grant to each State, upon application of the chief executive thereof, in order to assist in meeting the costs of that State's participation in the Conference program, including the conduct of at least one conference within each such State.

(b) Grants made pursuant to subsection (a) shall be made only with the approval of the Council.

(c) Funds appropriated for the purposes of this subsection shall be apportioned among the States by the Secretary in accordance with their respective needs for assistance under this subsection, except that no State shall be apportioned more than \$25,000 nor less than \$10,000.

AUTHORIZATION OF APPROPRIATIONS

SEC. 306. There are authorized to be appropriated, without fiscal year limitations, \$2,000,000 to carry out the provisions of this title and such additional sums as may be necessary to carry out section 305. Sums so appropriated shall remain available for expenditure until June 30, 1977.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

October 29, 1974

Received from the White House a sealed envelope said to contain H.R. 14225, An Act to extend the authorizations of appropriations in the Rehabilitation Act of 1973 for one year, to transfer the Rehabilitation Services Administration to the Office of the Secretary of Health, Education, and Welfare, to make certain technical and clarifying amendments, and for other purposes; to amend the Randolph-Sheppard Act for the blind; to strengthen the program authorized thereunder; and to provide for the convening of a White House Conference on Handicapped Individuals, and a veto message thereon.



W. Pat Jennings
Clerk of the House of Representatives

5:25 PM
Time received

October 29, 1974

Office of the White House Press Secretary

THE WHITE HOUSE

TO THE HOUSE OF REPRESENTATIVES:

I am today returning, without my approval, H.R. 14225, the Rehabilitation Act and Randolph-Sheppard Act Amendments of 1974, and the White House Conference on Handicapped Individuals Act. I am advised by the Attorney General and I have determined that the absence of my signature from this bill prevents it from becoming law. Without in any way qualifying this determination, I am also returning it without my approval to those designated by Congress to receive messages at this time.

The Vocational Rehabilitation Amendments of 1974 pose some fundamental issues which far transcend this particular bill. No group in our country is more in need of supportive services than the Handicapped. Our handicapped citizens have demonstrated time and again that, given a fair break, they can lead as full and productive lives as other citizens.

Throughout my years in Congress I consistently supported good Federal programs designed to assist the handicapped.

During the last two years spending on the basic grant programs for Vocational Rehabilitation has grown from \$589 million to \$680 million. The key issue posed by this bill is not how much money will be spent. The issue posed is how well the programs will be run.

This bill passed the House of Representatives without any hearings. Had hearings been held we would have explained the disruption that would result from such a massive legislative incursion into the administration of a program.

The Congress has the responsibility to legislate, but I have the responsibility for the successful administration of the programs they enact. This bill is an attempt to administer through legislation. It transfers a program from one part of HEW to another for no good reason - indeed for very bad reasons. It dictates where in HEW minute decisions must be made, it creates independent organizational units at subordinate levels that are wasteful and duplicative and it sets up a monitoring process for the construction and modernization of Federal facilities that would force me to create a new 250-man bureaucracy in HEW to duplicate functions carried out elsewhere in the Executive Branch.

Most importantly, the bill blurs accountability. I cannot be responsible for the good management of all Federal programs if I cannot hold my Cabinet Secretaries accountable. Under this legislation accountability would be diffused. I find myself obliged to return to the Congress unsigned a bill that would disrupt existing Federal programs and ill serve the needs of our Nation's handicapped citizens. The present Vocational Rehabilitation legislation does not expire until mid 1975.

more

Plenty of time remains for us to work out a bill which will improve Federal programs for the handicapped rather than create the disruptions that will inevitably result from this hastily drawn piece of legislation. I have requested HEW Secretary Weinberger to meet with congressional leaders immediately upon their return to initiate this process.

GERALD R. FORD

THE WHITE HOUSE,
October 29, 1974

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