


Memorandum

Date: July 21, 1993

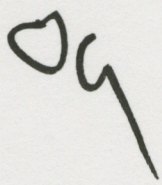
To: Senator Dole

From: Alec Vachon 

Re: Rehabilitation Act Amendments of 1993

Tomorrow Senator Harkin plans to introduce technical amendments to the Rehabilitation Act of 1973 for the UC calendar and be hotlined (bill description attached). These amendments have been widely reviewed and are wholly non-controversial. Staff for ranking Republican Committee members (Senator Kassebaum, ranking, Labor and Human Resources; and Senator Durenberger, ranking, Subcommittee on Disability Policy) have signed off.

If you have no objection, I will sign you on as an original co-sponsor.

Thank you. 



REHABILITATION ACT AMENDMENTS OF 1993  
SECTION-BY-SECTION ANALYSIS

TITLE I-REHABILITATION ACT OF 1973

Title I of the bill includes technical amendments to the Rehabilitation Act Amendments of 1992 and the Rehabilitation Act of 1973.

Section 101. References.

Section 101 of the bill provides that except as otherwise provided, references in the bill are considered made to a section or provision of the Rehabilitation Act of 1973.

Section 102. Rehabilitation Act Amendments of 1992.

Section 102 of the bill includes technical and conforming amendments to the Rehabilitation Act Amendments of 1992, including a clarification that each State agency must comply with the amendments made to title I of the Act by the Rehabilitation Act Amendments of 1992 as soon as practicable, consistent with the effective and efficient administration of the Act, but not later than October 1, 1993.

Section 103. Definitions.

Section 103 of the bill includes technical amendments to section 7 of the Act pertaining to definitions. These amendments clarify that the definition of "individual with a disability," as applied to titles II and VII, does not require an employment outcome. These amendments also make the definitions of "disability" in section 7(26) of the Act that are applicable to title III, VII, and VIII consistent with the definitions of "individual with a disability" in section 7(8) of the Act.

In addition, these amendments clarify that supported employment means work for individuals who require both intensive supported employment services provided by the designated State unit prior to transition to the extended services provider and also extended services provided by an extended service provider subsequent to the transition.

Section 104. Carryover.

Section 104 of the bill clarifies that the carryover provision set forth in section 19 of the Act only applies to the Older Blind and PAIR programs when they become formula grant programs, and adds a provision making the carryover provision applicable to all program income received by recipients under the



formula grant programs authorized under the Act, including reimbursement payments under the Social Security.

#### Section 105. Client Assistance Information.

Section 105 of the bill amends section 20 of the Act pertaining to client assistance information by clarifying who is to receive client assistance information, i.e. applicants for services as well as recipients of services.

#### Section 106. Traditionally Underserved Populations.

Section 106 of the bill makes editorial changes to section 21 of the Act pertaining to traditionally underserved populations.

#### Section 107. Vocational Rehabilitation Services.

Section 107(a) of the bill makes technical amendments to section 101 of the Act pertaining to the State plan. These amendments change an incorrect subparagraph reference; clarify that States that have independent commissions, as well as States that establish Rehabilitation Advisory Councils, must describe in their State plans how their policies and procedures will be modified on the basis of consumer satisfaction surveys conducted by the State independent commission or the advisory council, as appropriate; and clarify that the allotment set-aside for section 123 purposes is to come from the allotment for the State vocational rehabilitation Services Grant program only and does not include the Client Assistance Program allotment;

In addition, section 107(a) of the bill clarifies that the independent commission is intended to be a designated State agency that is primarily concerned with vocational rehabilitation or vocational and other rehabilitation of individuals with disabilities; and clarifies that if a State has two agencies, one that administers the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind and designates a separate State agency to administer the remainder of the State plan and one of the agencies has an independent commission that is consumer-controlled, the State rehabilitation advisory council need only be established with respect to the agency that is not consumer-controlled.

Further, section 107(a) of the bill corrects and clarifies cross-references in section 101(a)(36)(C)(ii)(I) and (II) of the Act that are reversed with respect to the State agencies identified in subparagraph (C) and makes the requirements in section 101(a)(36)(C) of the Act consistent with those in section 101(a)(36)(B) of the Act; and changes an incorrect section reference.



Section 107(b) of the bill makes technical amendments to section 102 of the Act pertaining to the individualized written rehabilitation plan.

Section 107(c) of the bill includes conforming amendments to section 103 of the Act pertaining to the scope of vocational rehabilitation services by making generic references to "qualified personnel under State licensure laws."

Section 107(d) of the bill conforms provisions pertaining to advisory councils to Commissions for the Blind to the provisions applicable to advisory councils to general agencies under section 105 of the Act. These amendments also specify 10 rather than 13 as the minimum size of a council advising a Commission for the Blind under certain circumstances and allow until October 1, 1994 to make changes when the composition of the Council is specified in State legislation.

These amendments also change an incorrect section reference; clarify that while appointments may be made to a State Rehabilitation Advisory Council by an entity other than the Governor, that entity must have broad appointment authority under State law and not merely limited to appointment authority over personnel within its own agency. For example, the State vocational rehabilitation agency would not qualify as an appointing agency;

In addition, these amendments clarify that funds used to reimburse members of the State Rehabilitation Advisory Council for expenses are not to come out of CAP or American Indian grant funds.

Section 107(e) of the bill corrects inconsistencies in the reallocation provisions in section 110 of the Act and the carryover provision in section 19, and clarifies that reallocated funds may be carried over for obligation by the end of the subsequent fiscal year--just like a State's original allotment--provided matching is met.

Section 107(f) of the bill corrects the margins in section 111(b) of the Act pertaining to payments to States.

Section 107(g) of the bill makes a conforming change in section 112 of the Act pertaining to client assistance programs by striking "facilities" and inserting "community rehabilitation programs." In addition, the section makes technical and conforming clarifications to the formula for the client assistance program.

Section 107(h) of the bill makes technical and conforming clarifications to the formula for innovation and expansion grants.



Section 108. Client Information.

Section 108 of the bill makes two free-standing requirements in section 137 of the Rehabilitation Act Amendments of 1992 ("Review of Data Collection and Reporting System" and "Exchange of Data") more easily accessible by incorporating them within the Rehabilitation Act itself (new part E of title I).

Section 109. Research and Training.

Section 109 of the bill includes clarifying editorial and grammatical changes to section 202 of the Act.

Section 110. Training and Demonstration Projects.

Section 110(a) of the bill clarifies that under section 302 of the Act pertaining to training and demonstrations, recruitment is not limited to persons already employed; clarifies that there is an employment goal that is the basis of the recruitment and training program; and provides an authorization of appropriations for the training authority in Title III of the Act. The authorization of appropriations for this authority was inadvertently left out during the reauthorization of the Act.

Section 110(b) of the bill corrects subsection references in section 310 of the Act pertaining to authorization of appropriations to reflect their redesignation. Section 110(c) of the bill makes a grammatical change and conforming changes to section 311 of the Act pertaining to special demonstration programs. Section 110(d) of the bill makes a conforming change to section 316 of the Act pertaining to special recreational programs.

Section 111. National Council on Disability.

Section 111 of the bill increases from seven to eight the maximum number of staff of the Council authorized under section 403(a)(2) of the Act.

Section 112. Rights and Advocacy.

Section 112(a) of the bill makes a grammatical change to section 501(a) of the Act pertaining to employment of individuals with disabilities. Section 112(b) of the bill clarifies an erroneous reference in section 502 of the Act pertaining to the Access Board.

Section 112(c) of the bill clarifies that the purpose of the PAIR program established under section 509 of the Act is to support a system in each State to protect the legal and human rights of individuals with disabilities who need services that



are beyond the scope of services authorized to be provided by the client assistance program.

In addition, this section of the bill clarifies that when the PAIR program is competitive, territories are eligible to compete; clarifies the operation of the formula; clarifies that States that receive continuation funds in FY 1993 are not eligible to apply for new awards in FY 1993; and clarifies that only States that have Protection and Advocacy systems housed in a State agency may take five percent for administrative costs.

#### Section 113. Availability of Services.

Section 113 of the bill corrects a cross reference in section 633 of the Act pertaining to the availability of services under the supported employment program.

#### Section 114. Independent Living Services and Centers for Independent Living.

Section 114(a) of the bill makes it clear that the reference in section 701(3) of the Act (purpose) is to authority for Federal programs other than the Rehabilitation Act.

Section 114(b) of the bill clarifies section 704(c)(2) of the Act that the requirement for the State designated unit to provide administrative services only applies when the Part C program is administered by the State under section 723.

Section 114(c) of the bill makes several clarifying amendments to section 705 of the Act pertaining to the Independent Living Council, including a clarification that the Council shall not be established as an entity within a State agency, and a clarification that the majority rule for the Council is with respect to voting members (i.e., individuals with disabilities not employed by any State agency or center for independent living).

Section 114(d) of the bill amends section 706(c) of the Act pertaining to the responsibilities of the Commissioner by requiring on-site compliance reviews by the Commissioner only when Federal funding exceeds State funding, and when States fail to submit and obtain approval of an application to administer the program. This amendment also clarifies that ED is required to provide on-site compliance reviews of at least one third of the State units that receive funding under section 723, but not duplicate the State on site compliance review requirement in section 723(g) and clarifies that the Secretary is to select designated State units, as well as centers for independent living, for review on a random basis.



Section 114(e) of the bill amends section 711 of the Act pertaining to allotments clarifies that: (1) the percent of funds to be set aside refers to the entire appropriation, not just to a percent of the excess; and (2) while the percentage of funds used for training and technical assistance is to be taken from the appropriation as a whole, the amount of funding available for allocation to centers shall not be less than the amount provided in the prior year appropriation.

Section 114(f) of the bill strikes an unnecessary paragraph from section 712(b) of the Act pertaining to payment to States under the Independent Living Services Program.

Section 114(g) of the bill makes a conforming change to section 713(3) of the Act pertaining to the authorization of uses of funds for centers under the Independent Living Services Program.

Section 114(h) of the bill makes several clarifying changes to section 721 of the Act pertaining to centers for independent living, including a clarification that funds are first to be calculated on the basis of population prior to application of the 1992 maintenance or minimum allotment requirements. As enacted, section 721(c)((B), maintenance of 1992 amounts, would not apply to the territories, two of which had substantial grants in fiscal year 1992. The change corrects this error while ensuring that they receive the minimum allotments intended by Congress.

In addition, this amendment would remove a nonsequitor and clarify that the amount of the training set-aside required by this subsection is to be within the specified percentage range rather than a set percentage. The current language is inconsistent with similar training provisions elsewhere in the Act.

Further, this amendment clarifies that any entity, not just private non-profit agencies, that previously received funding may continue to receive funding if the entity will meet all standards and assurances by a specified date.

This amendment also clarifies that the funding method required for fiscal year 1993 awards will be the same as for fiscal year 1994 awards. This clarification will ensure that the distribution in fiscal year 1993 will not conflict with the 1994 requirements.

Section 114(i) of the bill clarifies that under section 722 of the Act, grantees may not be receiving funds on September 30th because project periods typically begin October 1, 1993. However, all current year awards must be made by September 30th. This amendment also reconciles the requirements of paragraph (1) with those of paragraph (3). Further, this amendment provides a



transition period for centers currently providing or managing residential housing to cease providing such housing or make alternative legal arrangements by October 1, 1994.

Section 114(j) of the bill provides flexibility to the Commissioner under section 723 to prevent States from falling out because of different budget cycles or late Federal appropriations; and provides that grantees may not be receiving funds on September 30th because project periods typically begin October 1, 1993. However, all current year awards must be made by September 30th.

Further, this amendment provides a transition period for centers currently providing or managing residential housing to cease providing such housing or make alternative legal arrangements by October 1, 1994.

This amendment also clarifies how many centers per year should be reviewed and limits the State's responsibility to those centers receiving Federal funds.

Section 114(k) of the bill corrects a fiscal year reference in section 724(b)(1)(A) of the Act.

Section 114(l) of the bill makes conforming changes to section 725(b) of the Act pertaining to standards and assurances.

Section 114(m) of the bill corrects a fiscal year reference in section 752 of the Act pertaining to Independent Living Services for Older Individuals Who Are Blind. This amendment also clarifies that grantees receiving continuation awards under Independent Living Services for Older Individuals who are Blind grants, would not be subject to the competition requirement during the period of their grant award. Further, this amendment clarifies that the minimum allotment to States for the Independent Living Services for Older Individuals who are Blind grants is either \$250,000 or an amount equal to one-third of one percent of the amount appropriated under section 753 of the Act for the fiscal year and available for allotments under section 752(a) of the Act.

Section 116. Table of Contents.

Section 116 of the bill makes conforming changes to the table of contents.

#### TITLE II-EDUCATION OF THE DEAF ACT OF 1986

Title II of the bill makes technical and conforming changes to the Education of the Deaf Act.

#### TITLE III-OTHER ACTS



Title III of the bill makes technical and conforming changes to other Federal laws.