

Senate Suppl. : ADA Technical Assistance

ADMINISTRATION
 ADMINISTRATION
 \$185,620,000
 1,500,000
 1,500,000

Appropriation of \$1,500,000 to Administration to process an inter-vening duty cases. This is

SPHERIC ADMINISTRATION
 AND FACILITIES
 \$1,353,156,000
 3,000,000

Supplemental appropriation of and Atmospheric Administration) above the House allowance

NOAA in coping with unbud- ges; and, (2) fire damage. The ince flying hours for P-3 hur- hours for NOAA ocean and 6, 1991, a NOAA facility in aged by a fire. Approximately, e furniture and computers del costs required for temporary

GENERAL PROVISION
 language to clarify that the assistance to the Federated

for periodic censuses and pro- e Federated States of Microne- d correspondence between the regarding this issue. It was as- Compact of Free Association deral agencies to provide tech- m assistance to the Federated e Census Bureau.
 d its desire to follow through Micronesia with conducting a atistical training in planning analysis, equipment and sup- tence expenses for FSM train- nature of the Census Bureau, hority is necessary. Therefore, uage to ensure that this assist-

ance can begin expeditiously and that no ambiguity exists regard- ing the authority to provide such assistance.

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

(TRANSFER OF FUNDS)

1991 appropriation to date.....	\$343,603,000
1991 supplemental estimate.....	(3,180,000)
House allowance	(3,180,000)
Committee recommendation.....	7,180,000
(By transfer).....	(3,180,000)

The Committee recommends a supplemental appropriation of \$7,180,000 for general legal activities, of which \$3,180,000 is to be derived by transfer of funds from the salaries and expenses appro- priation of the Federal Prison System. The amount recommended is \$4,000,000 above the President's request and the House allow- ance.

The recommendation provides an increase of six positions, 3 work-years, and \$314,000 to implement a pilot program providing short-term protection to fact witnesses who have been threatened as a result of their cooperation with the U.S. attorney's office; and \$604,000 to acquire a state-of-the-art geographical information system to evaluate redistricting plans based on the 1990 census. The recommendation provides a transfer of \$2,262,000 to support new responsibilities associated with the Americans With Disabil- ities Act of 1990.

In addition, the Committee recommends that the Department be provided \$4,000,000 for technical assistance related to the imple- mentation of the ADA. These funds must be used in a manner con- sistent with the technical assistance strategies set out in the pro- posed technical assistance plan published in the Federal Register (55FR50239, December 5, 1990). The Committee also intends that these funds be directed toward meeting the needs of individuals with disabilities, their representatives or advocates, covered enti- ties, and the general public at the National, State, and local levels.

RADIATION EXPOSURE COMPENSATION ACT

The Committee concurs with the House report language regard- ing the Radiation Exposure Compensation Act that requires a report to be submitted by June 30, 1991, that provides: (1) status of rulemaking; (2) estimated number of claimants and related costs; (3) administration of the trust fund; and (4) an estimate of the rela- tive number of downwind and uranium miner claimants. The Committee also understands, however, that the issue of which exec- utive branch department or agency will be responsible for financ- ing the trust fund, has yet to be determined.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

1991 appropriation to date.....	\$197,750,000
1991 supplemental estimate.....	8,000,000
House allowance	8,000,000
Committee recommendation.....	8,000,000

The Committee recommends an appropriation of \$8,000,000 for grants to Radio Free Europe to partially offset the depreciation of the U.S. dollar overseas. This funding level is the same as the President's request and the House allowance.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

1991 appropriation to date.....	\$198,300,000
1991 supplemental estimate.....	1,000,000
House allowance	2,000,000
Committee recommendation.....	

The Committee has included a supplemental appropriation of \$2,000,000 for the Equal Employment Opportunity Commission. This is \$1,000,000 above the House allowance. These funds will allow the EEOC to address additional responsibilities mandated by the enactment of the Americans with Disabilities Act of 1990.

These funds must be used in a manner consistent with the technical assistance strategies set out in the proposed technical assistance plan published in the Federal Register (55FR50239, December 5, 1990). In addition, the Committee intends that these funds be directed toward meeting the needs of individuals with disabilities, their representatives or advocates, covered entities, and the general public at the National, State, and local levels.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

1991 appropriation to date.....	\$115,794,000
1991 supplemental estimate.....	1,000,000
House allowance	1,000,000
Committee recommendation.....	

The Committee has included a supplemental appropriation of \$1,000,000 for the Federal Communications Commission as proposed by the House. These funds will allow the FCC to acquire computer and related equipment necessary to improve staff productivity and ability to address increased workload.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

1991 appropriation to date.....	\$54,095,000
1991 supplemental estimate.....	2,000,000
House allowance	1,000,000
Committee recommendation.....	

the ADA? That is, can we assure employers that they will not face litigation under the ADA by current users of illegal drugs and alcohol?

Mr. HARKIN. Let me state it as clearly as I can. Users of illegal drugs, including those addicted to illegal drugs, are not protected by the ADA, regardless of whether the employee or applicant is otherwise qualified and the employee is meeting performance standards.

The technical amendment with respect to illegal drugs and alcohol was made to remove any question about the meaning of the statutory language. Although many of us believe that the language of the bill, as reported, was clear, others criticized the bill as being too vague with respect to the issue of the use of illegal drugs.

The new language assures employers that they need not worry about having to defend actions brought by casual drug users, who are not covered under the act. The act does protect drug addicts who are not current users. And we all agree that people who use controlled substances under medical supervision, are unaffected by this provision of the act.

With respect to drug testing, the ADA explicitly states that nothing in the act prohibits or restricts either drug testing or employment decisions taken on the basis of such drug tests. Therefore, an applicant who is tested and not hired because of a positive test result for illegal drugs, or an employee who is tested and is fired because of a positive test result for illegal drugs, does not have a cause of action under the ADA. If an employer performed a test which actually measured the current use of illegal drugs and the test was positive for the use of illegal drugs, the applicant or employee has no protection under the ADA. It is not a question of the employer having a defense in an action by the applicant or employee. The employer needs no such defense because the applicant or the employee has no cause of action.

So, I think we can assure the Senator and employers, without hesitation, that employers will not face litigation under the ADA on the part of current users of illegal drugs and alcohol either for testing or for taking disciplinary action against such individuals based on such testing.

Mr. ARMSTRONG. Mr. President, I have not had a chance to see the amendment. This is a matter of interest to me. Do we have a copy of the amendment?

Mr. HARKIN. It is at the desk. We tried to clear this with both sides. I thought it had been cleared.

Mr. President, in the meantime, I ask unanimous consent that we can move ahead in the interest of time to accommodate the distinguished minority leader. I move to set aside the amendment.

The PRESIDING OFFICER. Without objection, the amendment will be set aside.

The Senator from Kansas.

AMENDMENT NO. 719

(Purpose: To provide a plan to provide entities with technical assistance)

Mr. DOLE. Mr. President, I send an amendment on behalf of myself and Senator DOMENICI and Senator GRASSLEY to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for himself, Mr. DOMENICI and Mr. GRASSLEY, proposes an amendment numbered 719.

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 95, strike lines 4 through 14 and insert the following new subsections:

(a) PLAN FOR ASSISTANCE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General, in consultation with the Chairman of the Equal Employment Opportunity Commission, the Secretary of Transportation, the National Council on Disability, the Chairperson of the Architectural and Transportation Barriers Compliance Board, and the Chairman of Federal Communications Commission, shall develop a plan to assist entities covered under this Act, along with other executive agencies and commissions, in understanding the responsibility of such entities, agencies, and commissions under this Act.

(2) PUBLICATION OF PLAN.—The Attorney General shall publish the plan referred to in paragraph (1) for public comment in accordance with the Administrative Procedure Act (5 U.S.C. 551 et seq.).

(b) AGENCY AND PUBLIC ASSISTANCE.—The Attorney General is authorized to obtain the assistance of other Federal agencies in carrying out subsection (a), including the National Council on Disability, the President's Committee on Employment of People with Disabilities, the Small Business Administration, and the Department of Commerce.

(c) IMPLEMENTATION.—

(1) AUTHORITY TO CONTRACT.—Each department or agency that has responsibility for implementing this Act may render technical assistance to individuals and institutions that have rights or responsibilities under this Act.

(2) IMPLEMENTATION OF TITLES.—

(A) TITLE I.—The Equal Employment Opportunity Commission and the Attorney General shall implement the plan for assistance, as described in subsection (a), for title I.

(B) TITLE II.—

(i) IN GENERAL.—Except as provided for in clause (ii), the Attorney General shall implement such plan for assistance for title II.

(ii) EXCEPTION.—The Secretary of Transportation shall implement such plan for assistance for section 203.

(C) TITLE III.—The Attorney General, in coordination with the Secretary of Transportation and the Chairperson of the Architectural Transportation Barriers Compliance Board, shall implement such plan for assistance for title III.

(D) TITLE IV.—The Chairman of the Federal Communications Commission, in coordination with the Attorney General, shall implement such plan for assistance for title IV.

(d) GRANTS AND CONTRACTS.—

(1) IN GENERAL.—Each department and agency having responsibility for implementing this Act may make grants or enter into contracts with individuals, profit institutions, and nonprofit institutions, including educational institutions and groups or associations representing individuals who have rights or duties under this Act, to effectuate the purposes of this Act.

(2) DISSEMINATION OF INFORMATION.—Such grants and contracts, among other uses, may be designed to ensure wide dissemination of information about the rights and duties established by this Act and to provide information and technical assistance about techniques for effective compliance with this Act.

(e) FAILURE TO RECEIVE ASSISTANCE.—An employer, public accommodation, or other entity covered under this Act shall not be excused from meeting the requirements of this Act because of any failure to receive technical assistance under this section.

Mr. DOLE. Mr. President, let me explain this amendment. It has been cleared on both sides. It is a technical assistance amendment.

It is important that both the employers and businesses and the handicapped fully understand this legislation, once it is passed, if it is to be implemented. So that is precisely what the amendment does. It will enable the responsible Federal agencies to establish a strong Governmentwide technical assistance program. Such a program will help to educate the public about the requirements of this bill.

Entities in the private sector need to be aware of what accommodations are both necessary and cost effective, as well as what is the best suited for particular disabled individuals.

Since many of these accommodations will be made in areas which traditionally have not been covered under the Rehabilitation Act—that is, other than universities or Federal contractors in excess of \$2,500—a longstanding expertise can be applied in implementing the ADA in these new areas.

The same standards exist in the ADA that have existed for over a decade in the Rehabilitation Act. For example, reasonable accommodations which do not provide an undue burden and are limited by business necessity and safety are principles which can be defined by a decade of experience.

Technical assistance is instrumental in providing these definitions to the private sector. A thorough understanding of these principles will greatly hasten the implementation and practice of this important piece of legislation.

Given the comprehensive nature of the ADA, I believe it is our obligation to see that people with disabilities understand their new rights under the bill and that employers and businesses understand the nature of their new obligations.

The PRESIDING OFFICER. Is there further debate?

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, unless the distinguished minority