

**TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS  
WITH DISABILITIES AMENDMENTS OF 1993**

---

AUGUST 2, 1993.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

---

Mr. FORD of Michigan, from the Committee on Education and  
Labor, submitted the following

**REPORT**

together with

**ADDITIONAL MINORITY VIEWS**

[To accompany H.R. 2339]

The Committee on Education and Labor, to whom was referred the bill (H.R. 2339) to amend the Technology-Related Assistance for Individuals with Disabilities Act of 1988 to authorize appropriations for each of the fiscal years 1994 through 1998, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendment to the text of the bill is a complete substitute therefor and appears in italic type in the reported bill.

The title of the bill is amended to reflect the amendment to the text of the bill.

**EXPLANATION OF THE AMENDMENT**

The Committee amendment strikes all after the enacting clause and inserts a substitute text. The provisions of the substitute text are explained in this report.

**PURPOSE**

The purpose of H.R. 2339 is to assist States in the development and implementation of consumer-responsive, consumer-driven comprehensive statewide programs of technology-related assistance to increase the access of individuals with disabilities to assistive technology devices and services.

## COMMITTEE ACTION

The Subcommittee on Select Education and Civil Rights held hearings on April 19, 1993, and June 10, 1993, to consider the reauthorization of the Act.

The April 19, 1993, field hearing in Richmond, Virginia, sought to examine the progress made toward achieving implementation of statewide consumer-responsive programs and to look at models which enhance consumer independence and aid designated State agencies in effectuating systems change. Testifying were: Mary Somoza and her daughter, Anastasia Somoza of New York City; Kenneth Knorr, Program Director, Virginia Assistive Technology Systems, Richmond, Virginia; Deborah Buck, Project Manager, TRAIID Project, Albany, New York; M. Nell Bailey, Project Director, RESNA Technical Assistance Project, Washington, D.C.; Dr. Marvin Fifield, Program Director, Utah State Program for Technology-Related Assistance, Logan, Utah; Steve Tremblay, Principal Investigator, Alpha One, South Portland, Maine; Girish Yajnik, University of South Carolina, Columbia, South Carolina; and Mark Odum, Principal Investigator, National Rehabilitation Information Center, Silver Spring, Maryland.

The June 10, 1993, hearing in Washington, D.C. was held to receive comments from the Administration, State technology-related assistance program directors, and experts on H.R. 2339, the bill to reauthorize the Act. Testimony was received from: Dr. William Smith, Acting Assistant Secretary of the Office of Special Education and Rehabilitative Services, U.S. Department of Education, Washington, D.C.; Stephen Sallee, Winston-Salem, North Carolina; Ricki Cook, Project Director, North Carolina Assistive Technology Project, Raleigh, North Carolina; Andrew Winnegar, Project Director, New Mexico Technology-Related Assistance Program, Albuquerque, New Mexico; Michael Morris, Deputy Executive Director, United Cerebral Palsy Association, Washington, D.C.; Mr. Steven B. Mendelsohn, San Francisco, California; and Alistair MacKinnon, Legislative Director, New York State Department of Education, Albany, New York.

H.R. 2339 was introduced by Mr. Owens on June 8, 1993. On June 30, 1993, the Subcommittee on Select Education and Civil Rights considered H.R. 2339. Mr. Owens offered an amendment in the nature of a substitute for H.R. 2339. The amendment in the nature of a substitute for H.R. 2339 was adopted. H.R. 2339, as amended, was considered and approved by the Subcommittee by voice vote.

On July 28, 1993, the Committee on Education and Labor, by a voice vote, ordered the bill favorably reported, with an amendment.

## SUMMARY

In reporting H.R. 2339, the Committee on Education and Labor proposes to reauthorize the Technology-Related Assistance for Individuals with Disabilities Act of 1988. H.R. 2339 accomplishes one objective in Title I, two objectives in Title II, and one objective in Title III. The primary objective of Title I (the State Grant Program), and the legislation as a whole, is to assist each participating State in developing and implementing a consumer-responsive,

consumer-driven comprehensive statewide program of technology-related assistance for individuals with disabilities of all ages so that such individuals may acquire information about assistive technology devices and services and gain access to such devices and services. Title I also directs the Secretary of Education (hereinafter "Secretary") to provide information and technical assistance to the participating States and individuals with disabilities. Title I will sunset in the fiscal year ending before October 1, 2002, by which time each State should have a permanent program of technology-related assistance in place.

The objectives of Title II are: (1) to develop a national classification system for assistive technology devices and services; and (2) to fund training and demonstration projects.

The objective of Title III is to assist each participating State in establishing an alternative financing mechanism through which individuals with disabilities can purchase assistive technology devices and services. Each State is eligible for a one-time Federal matching grant.

#### STATEMENT

##### *Background*

In 1988, the Congress passed Public Law 100-407, the Technology-related Assistance for Individuals with Disabilities Act of 1988 in order to make assistive technology devices and services available to individuals with disabilities. In many cases, assistive technology devices and services allow individuals with disabilities to function independently; to perform at a level commensurate with their abilities in school, at work, at home, and during recreational activities; to interact directly with others; and to have control over their environment. The purpose of Public Law 100-407 was to serve as a catalyst for States, entities within States, and other Federal programs, to review, consider, develop, and implement policies, procedures, and practices to increase the availability of and access to assistive technology devices and services for individuals with disabilities.

Since the passage of Public Law 100-407, 42 States have received grants under the Act, and the remaining 8 States, the District of Columbia, and Puerto Rico are expected to receive grants during fiscal year 1993. In fiscal year 1989, nine States received the first grants awarded under this Act and developed the model programs of technology-related assistance that have been replicated in other States. For example, the majority of States have created information and referral networks that individuals with disabilities can access in order to find out about specific assistive technology devices and services. Several States have created demonstration centers to provide individuals with disabilities with an opportunity to see and test specific devices before purchasing them. Many States have allowed individuals with disabilities to borrow an assistive technology device and use it for a period of time to make sure it is the correct device to meet their specific needs. Also, many States have formed interagency coordinating committees and implemented agreements so that all State agencies have some knowledge about assistive technology and are aware of the assistive tech-

nology program in their State. Finally, most of the States have been responsive to the needs of consumers by creating consumer advisory councils to ensure that individuals with disabilities are involved in developing and implementing the statewide program of technology-related assistance.

#### *Need for legislation*

The current programs under the Technology-Related Assistance for Individuals with Disabilities Act have led to substantial systemic change and increased access to devices and services. However, the work of the Subcommittee on Select Education and Civil Rights has identified a number of reasons for changes and additions to the program.

#### *Growth in technology and related fields*

Some experts project that the sum total of information available to mankind has doubled in the last 30 years and will double again in the next 10 years. In no field is this more obvious than in the field of assistive technology devices and services which may provide benefits and increased access to life activities for individuals with disabilities. Whether in the area of new technology (such as augmentative communications, touch or sound activated computers or mechanical devices or print-to-sound programs) or the adaptation of existing technologies (such as wheelchair accessible transportation or "self-operating" doors or appliances), progress during the last decade has been exponential.

However, even with the increase in the number and range of assistive technology devices and services being developed, more could be done. There is still a lack of trained personnel, in the engineering and assistive technology device adaptation fields, and in the areas of social services and case management. Also, while progress in the area of curriculum development and career outreach has occurred, there is still an insufficient number of programs in institutions of higher education directed to this specialty. This statement is particularly true with respect to recruitment and training of professionals from underrepresented populations and in rural areas.

Also, the lack of adequate financing for assistive technology devices and services, coupled with limited information dissemination systems, has served as a "drag" on the participation in this field by private industry.

The pace and breadth of change, combined with problems of limited access and personnel, make it even more important that the State programs of technology-related assistance be developed properly. Such programs must be consumer-responsive and consumer-driven; must be based on uniform information and nomenclature; and must be pro-active, not reactive, to the state-of-the-art of technological development. They must include personnel training, and they must encourage the efforts of private industry. The changes proposed in these amendments are designed to achieve these ends.

#### *Recent reports*

Three reports, required by Public Law 100-407 and conducted under contract with the Department of Education, recently have

been completed and submitted to Congress. The "Study on the Financing of Assistive Technology Devices and Services for Individuals with Disabilities," "National Assistive Technology Information & Program Referral Feasibility and Desirability Study," and "National Evaluation of State Grants for Technology-Related Assistance for Individuals with Disabilities Programs" made numerous recommendations for improving the State programs of technology-related assistance. Chief among them were recommendations regarding: (1) the need for more alternative financing arrangements; (2) the need for a common taxonomy; (3) the need for more advocacy on behalf of individuals with disabilities to help them gain access to assistive technology devices and services; (4) the need to support States in efforts to make their programs of technology-related assistance have more consumer input; and (5) the need to provide more opportunities for people working in this field to share information on assistive technology devices and services and their applications. The Committee has responded to these concerns in the proposed amendments.

#### *Effect of the Americans With Disabilities Act*

With the passage of the Americans With Disabilities Act of 1990 (hereinafter "ADA"), children, youth, and adults with disabilities and their families have an enhanced set of expectations about equality of opportunity, full participation, independent living, and economic self-sufficiency. In many situations, the solution to overcome the discriminatory effects of architectural, transportation, and communication barriers will be diverse applications of assistive technology. In the home, in the classroom, in the workplace, and in the community, assistive technology is the critical means to enable individuals with disabilities to become more independent, competitive, self-confident, productive, and included. Understanding the linkage between equal opportunity and access to assistive technology is becoming more apparent with each new successful experience of a technology user with a disability in diverse work settings and of students with disabilities who are technology users in regular classrooms interacting with their classmates who have no disabilities. In order for the full promises of the ADA to become realized, assistive technology must become better understood as a means to achieve reasonable accommodation for individuals with disabilities.

Unacceptable, arbitrary, and in some cases unlawful, determinations about provision and funding of assistive technology services and devices for a specific individual are readily made at the State and local level, often based on ignorance about costs, necessity, or use of such services and devices. This has been well documented by a host of individuals with disabilities who testified before the National Council on Disability in their report on access to funding for assistive technology. A Federal resource dedicated to the specific assistive technology advocacy needs of individuals with disabilities goes a long way to remedy such particular forms of mistreatment.

The passage of the Technology-Related Assistance for Individuals with Disabilities Act in 1988 was a response by Congress to the widespread lack of collaboration and cooperation between and with-

in various funding agencies. The Committee finds that despite five years of strong effort by the States, much confusion and frustration remains for individuals with disabilities and their families. Awareness, understanding, and access to assistive technology devices and services are still too often a function of an individual's geographic location, economic class, or racial or ethnic heritage. Additionally, the Committee finds that there is still a paucity of expertise among advocates, attorneys, individuals with disabilities, family members, and professionals across disciplines who can effectively weave their way through the complex web of Federal regulations regarding eligibility and assistive technology funding. Therefore, the Committee makes major amendments to the Act that will provide State technology-related assistance program directors with more guidance, and ultimately will make more money available with which individuals with disabilities can purchase assistive technology.

#### EXPLANATION OF THE BILL AND COMMITTEE VIEWS

The bill includes many changes to the Act designed to facilitate the development and implementation of consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance on a permanent basis.

#### *Findings and purposes*

The Committee amends section 2(a) of the bill by adding one finding and updating others.

The Committee adds a finding reflecting Congress' sense that the Act promotes values inherent in the ADA, which was passed by Congress two years after the Act. By stating that disability is a natural part of the human experience and in no way diminishes the right of individuals with disabilities to live independently, enjoy self-determination, make choices, contribute to society, pursue meaningful careers, and enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society, the Act incorporates one of the fundamental concepts of the ADA—that individuals with disabilities are able to pursue the "American dream." With this addition, the Committee demonstrates its strong belief that assistive technology devices and services are critical to enable individuals with disabilities to attain this dream.

The Committee also recognizes that for individuals with disabilities, the stakes could not be higher than in the current environment of high-technology initiatives by Congress and the private sector, particularly with the search to commercialize defense-related technology and to take advantage of other dual-use opportunities in technology. Dual-use initiatives involve the search for alternate applications of products, materials, processes, and services that previously have been developed for other purposes. The Technology Reinvestment Project (TRP) is an important example of such an initiative.

The TRP consists of five Federal departments and agencies: the Advanced Research Projects Agency of the Department of Defense, the Department of Energy/Defense Programs, the Department of Commerce's National Institute of Standards and Technology, the National Science Foundation, and the National Aeronautics and

Space Administration. The TRP is working to stimulate transition to an integrated, national industrial capability which could provide the most advanced, affordable military systems and the most competitive commercial products in the world. For fiscal year 1993, Congress appropriated \$471.6 million for TRP programs to stimulate applications of defense technology for alternate commercial uses. Within this initiative, as well as others, there is ample capacity for the development of assistive technology devices and services for individuals with disabilities.

Similarly, the Committee acknowledges that a massive reconfiguration of the telephone, computer, satellite, and television industries is occurring in the race to explore new approaches to retailing and information services that will be offered in interactive formats in homes, in the workplace, and on a portable basis. The Committee recognizes the importance of affordability and accessibility of these services for individuals with disabilities. The failure of Federal and State governments, hardware manufacturers, software designers, information systems managers, and telecommunications service providers to account for the specific access needs of individuals with disabilities not only results in the exclusion of individuals with disabilities from the use of telecommunications and information networks, but also results in unnecessary costs associated with the retrofitting of devices and product systems.

In the findings, the Committee also adds to the list of elements which are lacking for individuals with disabilities to receive technology-related assistance. The Committee recognizes that opportunities for individuals with disabilities resulting from their use of assistive technology will not be fulfilled unless other key players are also educated about the potential and availability of assistive technology. The Committee has added to the list of key players both teachers and related services personnel and technology experts. If special education students are expected to learn how assistive technology can help them reach their potential, then so must their teachers. If engineers are expected to design new technologies to aid individuals with disabilities in activities of daily living and work-related tasks, then they must be shown the importance of developing such technologies. The addition of these key players is repeated elsewhere in the bill where similar language appears.

In adding to the list of elements which are lacking for individuals with disabilities to receive technology-related assistance, the Committee also recognizes the need for aggressive outreach to underrepresented populations and rural populations. Through hearing testimony and a report of the National Council on Disability "Meeting the Unique Needs of Minorities with Disabilities: A Report to the President and the Congress," the Committee has found that minorities continue to represent a disproportionate share of the disability community. If vigorous efforts are not undertaken to target minorities in disability policy, the United States will continue to develop policies and programs that neglect the unique needs of minorities.

Consistent with these findings, section 2(b) amends the Act to clarify the law's original intent and to reflect the success of the State programs of technology-related assistance. The ultimate goal

of the Act is the creation of systemic change at both the State and Federal levels. This goal cannot be attained unless the State programs of technology-related assistance include consumer-responsive and consumer-driven activities designed to spur systems change. Nor will this goal be attained unless the personnel of such programs function as bureaucratic-level advocates for those needing assistive technology device and services. Finally, to effect systems change, State programs of technology-related assistance must include the provision of legal representation for individuals with disabilities who are entitled to a particular assistive technology device or service under State or Federal law and who are denied such device or service.

The Committee understands that it is not easy for individuals with disabilities to secure the assistive technology devices and services they need, and often they need someone to advocate for them. Agencies often have a conflict of interest with systems change activities necessary to respond to the assistive technology needs of individuals with disabilities. The provision of protection and advocacy services guarantees that requests which must be granted under law will not be ignored.

The Committee also acknowledges that true systems change will not be achieved without the active involvement of individuals with disabilities and their family members, guardians, advocates, or authorized representatives in the planning, development, implementation, and evaluation of technology-related assistance programs. Individuals with disabilities must become inextricable components of the activities conducted by the programs. This means that time will be taken and resources allocated to ensure that all activities are accessible to people with disabilities. Such a policy extends the same courtesy of participation and interaction to people with disabilities that is extended to others.

In adding new purpose (b)(4), the Committee recognizes that every individual is capable of communicating and acting, and knows best how to convey his or her thoughts to others and can act upon them. The Committee acknowledges that society has tended to isolate and segregate individuals with disabilities, and despite some improvements, various forms of discrimination against individuals with disabilities continues to be a serious and pervasive social problem. The Committee finds it necessary, therefore, to emphasize that one of the purposes of the Act is to help remedy and ameliorate this history.

### *Definitions*

From its discussions with State technology-related assistance program directors, the Committee finds that most directors want and need more guidance in fulfilling the objectives of the Act. The term "systems change" means something different to each director, as do the terms "consumer-responsive" and "advocacy." Unfortunately, if everyone is speaking a different language, the uniform goals of the Act will not be achieved.

Section 3 defines major terms used in the Act, adding the definitions of advocacy services, comprehensive, consumer-driven, consumer-responsive, protection and advocacy services, systems change activities, and underrepresented populations (which re-



places the term underserved group). These definitions should not be construed as expressing congressional intent to modify or supersede definitions or policies included in other Federal statutes.

The Committee intentionally draws a distinction between "advocacy services" and "protection and advocacy services." This distinction is the result of a protracted debate surrounding the meaning of the word "advocacy."

Through site visits, meetings with State technology-related assistance program directors and interest groups, and public hearings, the Committee found that the State technology-related assistance program directors and disability advocates were speaking in different languages about "advocacy." When the State technology-related assistance program directors stated that their programs were providing advocacy services, they meant that they were empowering individuals with disabilities with information about their legal rights and training them to locate funding sources for assistive technology. When disability advocates stated that most State programs of technology-related assistance were not providing advocacy services, they meant that the programs were not providing legal representation for individuals with disabilities. Both sides of the debate were correct. The reality is that both "advocacy services" and "protection and advocacy services" are necessary to achieve systems change.

Experience indicates a lack of enforcement of existing public mandates to provide assistive technology devices and services. State agencies often have a conflict of interest with systems change initiatives that are included in State programs of technology-related assistance. Consequently, many State technology-related assistance program directors need encouragement in their efforts to implement systems change activities which may appear threatening to State agency officials.

The existence of a protection and advocacy entity in an "outsider" role supports the State program of technology-related assistance in promoting systems change and offering advocacy services to individuals with disabilities when State agencies are unresponsive. Individuals with disabilities need more than "advocacy services"—information about funding and training on how to obtain it. They also need "protection and advocacy services"—legal representation to help access what Congress intended for them under special education, vocational rehabilitation, Medicaid, and other statutes.

Section 3(4) defines the term "comprehensive," which is used in the Act as an adjective to modify "statewide program of technology-related assistance." State programs of technology-related assistance will not be fulfilling their mission under the Act unless they address the needs of all individuals with disabilities, regardless of geographic location, race, ethnicity, English proficiency, socioeconomic status, type of disability, or age.

The term "consumer-driven," as defined in section 3(5), means that individuals with disabilities will be involved at the highest levels in the development, implementation, and evaluation of State programs of technology-related assistance. This definition locks hand-in-hand with the term "consumer-responsive," for individuals with disabilities know what kinds of activities most effectively

serve the assistive technology needs of other individuals with disabilities.

The term "consumer-responsive," as defined in section 3(6), is added as a clarification. This term goes beyond the involvement of individuals with disabilities in the operation of the State programs of technology-related assistance. It means that all of such programs' activities are directed by the needs of individuals with disabilities, ultimately enabling them to obtain the assistive technology devices and services to which they are entitled under law.

Section 3(13) defines the term "systems change activities" as those activities included in the State programs of technology-related assistance which are designed to effect measurable and permanent outcomes in laws, regulations, policies, procedures and practices. The Committee recognizes that systems change is the ultimate goal of the Act, and that bureaucrats can be educated and persuaded to take the disability community into consideration when formulating policy. Systems change activities eventually should result in greater public and private capacity to provide funding for assistive technology devices and services for individuals with disabilities and their family members, guardians, advocates, or authorized representatives.

The term "underrepresented population," as defined in section 3(15), replaces the term "underserved group." The Committee believes that "underserved" is too broad of a term, for many groups of people may be considered underserved without being historically disadvantaged in terms of receiving public services. The Committee intends the term "underrepresented population" to be interpreted broadly, including individuals who are minorities, poor, or limited English proficient.

#### *Title I—Grants to States*

##### *Nature of the program of assistance to States*

Section 101 of the bill specifies the nature of assistance to States, and distinguishes categories of activities that must be performed from lists of activities that may be performed by the States in developing, implementing, and evaluating their programs of technology-related assistance.

Under section 101(a), the term "consumer-driven" is added to ensure that the States involve individuals with disabilities in the development and implementation of consumer-responsive and systems change activities, as well as in the evaluation of such activities.

Former section 101(b), which listed the functions of the State programs of technology-related assistance, is replaced by categories of mandatory activities in the new section 101(b) and an expanded, non-exhaustive list of authorized activities in section 101(c). The Committee does not eliminate the list of functions. Instead, the list is incorporated into the categories of mandatory activities and list of authorized activities. The Committee intends to make the statute clearer by making this amendment.

*Required activities*

Because of the myriad activities among which States have been able to choose, it has been difficult to assure the disability community in each State a basic level of effort. Furthermore, State technology-related assistance program directors often have been unsure about the best ways to fulfill the Act's objectives. With limited Federal dollars available and the end of Federal support in sight, it is imperative that after five years of experience there be a move to categories of mandatory activities that target specific goals. Additionally, the definitions of these key categories in section 3 will help instruct and focus States on the desired outcomes for each category of activity.

In carrying out the purposes described in section 2(b)(1), the States must carry out four types of activities as defined in section 3: systems change activities; consumer-responsive, consumer-driven activities; advocacy services; and protection and advocacy services.

While all of the required categories of activities lead to systems change, the category of systems change activities is most directly related to the law's ultimate goal. Even though the list of activities within the category is not exhaustive, every activity on the list must be performed by the States.

As part of their program of technology-related assistance, States must monitor State and local laws, policies, and procedures to identify barriers to obtaining funds for assistive technology. Then, States must develop and implement strategies to eliminate these barriers and to coordinate funding for assistive technology. Special education, vocational rehabilitation, and medical assistance programs are identified as particularly critical funding streams for assistive technology. The Committee intends that States devote extra attention to eliminating funding barriers for under-represented populations and rural populations.

Also within the category of systems change activities, the States must establish interagency coordinating committees to enhance public funding options and coordinate funding for assistive technology devices and services for individuals of all ages with disabilities. These committees should develop guidelines to enable different State agencies to make decisions which are similar with respect to disability policy. The committees will disseminate information about progress in building funding capacity to State agencies as well as individuals with disabilities. By sharing this information with its State agencies, an interagency coordinating committee can show the less cooperative agencies what the others are doing to help individuals with disabilities gain access to the assistive technology they need. The Committee intends that the interagency coordinating committees give special attention to the issues of school-to-work transition, home use, and individual involvement in the identification, planning, use, delivery, and evaluation of assistive technology devices and services.

As part of working toward systems change, States also must develop written materials, and provide training and technical assistance, to ensure that the needs of individuals with disabilities for assistive technology devices and services are considered and included as part of an Individualized Education Program (IEP), Individualized Written Rehabilitation Program (IWRP), Individualized

Family Service Plan (IFSP), and other individualized plans, such as the Individualized Habilitation Plan (IHP). This activity is critical to expanding public funding capacity within the States.

Many individuals with disabilities and their families remain unaware that assistive technology needs should be considered within the individual program planning requirements of the statutes that authorize development of such individualized plans. Within each of these four program plan requirements, there are different standards of need, descriptions of scope of services, requirements of financial responsibility, and different appeals processes. All four plans establish an agreement in the nature of a contract between the public agency and the individual with a disability regarding services and equipment to be provided. Each of these plans must be prepared in writing and must involve the individual with a disability in the decision-making process. If States are required to document, deliver services, and coordinate agency involvement in the development of these individual plans, involvement and choice for individuals with disabilities will occur to a greater degree, and there will be a great expansion in the capacity of States to provide funding for assistive technology.

Consumer-responsive, consumer-driven activities are the second of four categories of required activities. Of these activities, two are mandatory and five are recommended.

The two mandatory consumer-responsive, consumer-driven activities are the establishment of consumer advisory councils and outreach to underrepresented populations and rural populations. The councils will advise the States on the development, implementation, and evaluation of their statewide programs of technology-related assistance, and will ensure the voice of individuals with disabilities in this process. Outreach to underrepresented populations and rural populations will include the identification and assessment of the unique needs of these populations; increasing the accessibility of services to them; training their members to become service providers; and training the personnel of the State program of technology-related assistance to be sensitive to their particular needs. For example, a State could increase the accessibility of services to rural populations by purchasing a mobile van to deliver services over a wide geographic area.

Consumer-responsive, consumer-driven activities also include five recommended activities. First, States can take actions to increase the degree of consumer participation, choice, and control in the selection and procurement of assistive technology devices and services. Second, States can coordinate their efforts with those of disability organizations to promote self-help, peer mentoring, and support groups that assist individuals with disabilities in obtaining assistive technology. Third, States may develop mechanisms for determining disability community satisfaction and participation in their program of technology-related assistance and document the results to help individuals with disabilities remain aware of their program's benefits. Fourth, States may develop and apply standards for personnel qualifications. Fifth, States have the authority to pay for the expenses and services of individuals with disabilities in financial need so that they are able to gain access to the services of the State's program of technology-related assistance and partici-

participate in such program's development, implementation, and evaluation. For example, States can pay for expenses incurred for child care and transportation, if the individual is determined to be in financial need.

The third category of activities that States must perform is advocacy services. These services will empower individuals with disabilities with the information and training they need to successfully advocate for access to assistive technology devices and services, with special emphasis placed on underrepresented populations and rural populations. State technology-related assistance program personnel also will develop strategies by which to advocate on behalf of individuals with disabilities at the bureaucratic level. The Committee recognizes that access to funding for assistive technology devices and services is an uphill battle for individuals with disabilities and the barriers to access are varied and diverse.

The fourth category of activities that States must perform is protection and advocacy services. A State must award a contract to provide these legal services to an organization established pursuant to the Developmental Disabilities Assistance and Bill of Rights Act. However, if a State provided protection and advocacy services (as defined in section 3(10)) as part of its program of technology-related assistance prior to January 1, 1993 through an alternate organization, then that State may continue to do so.

The Committee intends for the States to award protection and advocacy contracts without delay.

One of the Committee's major concerns in the area of protection and advocacy is to avoid a situation where the fox is guarding the hen house. When it is solely left up to a State program of technology-related assistance to provide legal representation for individuals with disabilities entitled to assistive technology under law, such State program may be confronted with the awkward position of having to sue its own lead agency or another arm of State government. A classic conflict of interest develops which reduces the effectiveness of counsel available to individuals with disabilities. Such a situation cannot be tolerated if systems change is to be achieved.

At the same time, it is not the intent of the Committee that protection and advocacy services provided pursuant to this Act supplant similar services already being provided under other State or Federal laws. For example, money which is funneled to Protection and Advocacy Agencies through the Rehabilitation Act of 1973 should be used to help a vocational rehabilitation client obtain an assistive technology device.

#### *Authorized activities*

In carrying out the purposes described in section 2(b)(1), a State may use grant funds for any activity necessary for developing, implementing, or evaluating its statewide program of technology-related assistance. Section 101(c) is expanded to include further illustrations of the types of activities which are permissible and which have been successful since the inception of the State programs of technology-related assistance. These authorized activities serve as a vital complement to the required activities by aiding the drive towards systems change while simultaneously maintaining State

flexibility through a menu of choices which can be targeted to a State's unique needs. The list is nonexhaustive.

The Committee strikes former section 101(c)(1)(C) because the involvement of individuals with disabilities in decisions related to the provision of assistive technology devices and services is now required as part of a consumer-responsive, consumer-driven comprehensive statewide program.

The Committee authorizes electronic communications (Section 101(c)(3)) as a new activity that the State programs of technology-related assistance may include. The States may operate computer systems by which they can electronically communicate with each other. Such a process will enable States to gain technical assistance from other States in a timely fashion, thus avoiding the duplication of efforts already determined to be successful in other States. Furthermore, electronic communication capability will ensure that the States have the capacity to engage in dialogue over computer networks, which may foster their involvement in dual-use or other technology research and development.

The Committee also authorizes the demonstration of assistive technology devices (Section 101(c)(4)) so that individuals with disabilities, their family members, guardians, advocates, or authorized representatives, as well as employers and service delivery providers, can have a place to see, touch, and learn about the devices from personnel who are familiar with assistive technology and its applications. Devices could be either new or used. The locations in States for such an activity are intended to be physically accessible for individuals with disabilities and their family members, guardians, advocates, or authorized representatives, and should serve to educate all who are interested in assistive technology about its uses and applications.

The demonstration of assistive technology devices also may include counseling and assistance to individuals with disabilities in determining their individual needs for assistive technology devices and services. Another type of demonstration could involve the short-term loan of devices to employers seeking to comply with the mandates of the ADA and section 504 of the Rehabilitation Act of 1973.

The Committee continues as an authorized activity the provision of a system of public access to technology-related information in a variety of formats responding to the needs of individuals with disabilities. The Committee encourages that access to such a system be provided through community-based entities such as public libraries, centers for independent living, and community rehabilitation programs. Public access ensures that needs are addressed across all income levels. The amendments also reflect the new media formats that have been developed since the passage of the Act in 1988. States should also take into account the needs of individuals with disabilities with limited English proficiency. Finally, the amendments show the Committee's intent to permit information systems to be organized on an interstate or regional basis, thereby facilitating the establishment of compatible, linked systems.

The Committee adds two more authorized activities to the list: partnerships and cooperative initiatives, and assistive technology

device and equipment redistribution information systems and recycling centers.

Partnerships and cooperative agreements between the public and private sector are key to the longevity and permanence of the State programs of technology-related assistance. The Committee's intent is to direct such State programs to encourage business and industry to participate in the development, demonstration, and dissemination of assistive technology devices and in the provision of information about new technologies. As Federal dollars are phased out, the role of the private sector continues to become more crucial.

As part of forming partnerships with the private sector, the States should keep themselves informed about developments in technology, such as initiatives in dual-use technology or defense-related conversion. The States also should work to ensure that research and development in technology consider the needs of individuals with disabilities. The relationship between the States and the private sector should be characterized by a reciprocal flow of information. The States must make the connection between the needs of individuals with disabilities for assistive technology and the continuing development of technology. This critical connection must be made; otherwise, technological innovation will leave behind the disability community as it moves forward. Such a situation could promote, not prevent, the segregation of the disability community. This Act and the spirit of the ADA both demand that the States do everything possible to ensure the full inclusion of individuals with disabilities in society.

States also can support the redistribution of assistive technology devices in the form of loans, rentals, or gifts. Redistribution can be achieved through the establishment of recycling centers or information systems which track the availability of assistive technology devices across the State. If a tracking system is used, then the State can devise a process by which assistive technology devices will be distributed to individuals with disabilities.

The Committee strongly recommends that States endeavor to establish assistive technology device and equipment redistribution information systems and recycling centers. Through its hearings and investigations, the Committee has found that too much used equipment ends up lying in the closets of people's homes and in rehabilitation and public health facilities when original owners no longer have use for it. Moreover, many individuals with disabilities have been forced to abandon equipment when they had not had the opportunity prior to purchase to try it out or see it demonstrated. In this sense, assistive technology device demonstration and recycling complement one another. Assistive technology device and equipment redistribution information systems and recycling centers would make the most of limited funding in an environment that emphasizes both consumer choice and direction and efficient distribution of public resources.

Significantly, technology manufacturers may have a strong interest in donating equipment and demonstrating products at recycling centers in order to expand, meet, and work with part of their market base. Such marketplaces could aid in reducing prices of items and services for individuals with disabilities. Development of technology-related devices and services would be advanced by institut-

ing this mechanism which builds in the input of individuals with disabilities. Purveyors of equipment and public payers for such products would hear, first-hand, what the needs and concerns of individuals with disabilities are as they borrow, try out, and return items. Again, it is the Committee's intention that such centers also could be involved with partnerships or other initiatives involving dual-use or other technology development.

#### *Development grants*

The Committee continues the provision of three-year development grants. By the end of fiscal year 1993 all fifty States, the District of Columbia, and Puerto Rico will have been given at least a development grant. In the future, the Secretary will continue to award any number of new development grants to the Territories on a competitive basis.

The Committee emphasizes that a strong grant application is required to receive Federal funding. The Committee strengthens the content requirements for the applications and adds new information and assurances which must be provided in them.

In its development grant application, a State must show that the lead agency which the Governor designates has the ability to develop and implement a consumer-responsive, consumer-driven comprehensive statewide program of technology-related assistance. This assurance is added due to the finding of the Committee that, in several States, the agency designated to lead the State program of technology-related assistance either is not effective in carrying out its duties or does not choose to use its Federal Funds in a prudent manner. The assurance is designed to help eliminate this problem.

States also must provide an assurance relating to fiscal control and accounting procedures. The Committee insists that the lead agency responsible for a State program of technology-related assistance have the authority to use the limited funds available to carry out the requirements of the Act. The director of the State program of technology-related assistance must be able to exercise judgment with respect to policies regarding such program. Without such ability, the director will not be able to ensure that the State program of technology-related assistance will fulfill its mandate under the law.

An assurance is also added to require States to specify the amount of its State or Federal funds to be allocated to protection and advocacy services. The amount indicated will be reviewed by the Secretary to determine if it reasonable in the relation to the size of the grant and the needs of individuals with disabilities within the State. In making this determination, the Committee instructs the Secretary to consider the population of the State as well as its geographic size. The Committee hopes that the States will fund protection and advocacy services at a level which will permit the employment of one full-time attorney.

Another assurance is added to emphasize the Committee's recognition that training personnel in the uses and applications of assistive technology is a fundamental component of a consumer-responsive system. States must assure that they will develop and implement strategies to include such training within existing Federal-



and State-funded training initiatives to enhance assistive technology skills and competencies. States will have to document these training activities.

A further assurance requires States to limit their indirect costs of operating the State programs of technology-related assistance to 15 percent or less. The Committee intends that the States conduct their activities in the most cost-effective manner possible.

The new assurance of coordination with State councils is intended to foster coordination between a State program of technology-related assistance and other councils within the State. The councils include, among others, the State Rehabilitation Advisory Council (or Councils) established under section 105 of the Rehabilitation Act of 1973. The coordination will prevent the duplication of councils' efforts. It also will create awareness of assistive technology and its uses and applications among State councils which until now may not have incorporated the concept in their agendas.

The new assurance of coordination with other related systems change projects funded by either Federal or State funds is intended to promote efficiency of purpose and exchange of information among initiatives which foster systems change.

Finally, the new assurance for timeliness of service provision will ensure greater accountability to the public and will give direction to the States in terms of management goals. This provision requires that the State review all internal procedures and policies, both legal and administrative, which effect: decisions related to the need for and the provision of assistive technology devices and services; the specific entity within the State which provides such devices or services; the procurement policies and procedures that affect the acquisition or usage of such devices or services; or the timelines involved in procurement. After a thorough review of procedures and policies, the State will determine areas of delay in delivery of assistive technology devices and services, particularly as such areas of delay relate to minors. Then the State will determine ways in which the timelines for acquisition and delivery may be decreased.

#### *Extension grants*

In accordance with section 103 of the bill, the Secretary may award a 2-year extension grant to any State that demonstrates to the Secretary that it made significant progress in developing and implementing a statewide program of technology-related assistance under a development grant consistent with the bill's purposes, requirements, and assurances described above. Absent significant progress, the Secretary can determine that a State not receive new funds. The Secretary will establish guidelines to be used in assessing the extent to which the States have made significant progress.

The Committee instructs the Secretary to give priority to the 10 States that have the largest populations (as determined by the 1990 decennial census of the population), and States that are sparsely populated with a wide geographic spread, in providing any increases in State grants above the amounts for fiscal year 1993. The Secretary shall give such priority only where State population or geographic size has impeded the development of the State program of technology-related assistance. For example, because of lim-

ited Federal support and a sparsely populated but wide geographic spread, a State program of technology-related assistance may not be able to reach large portions of individuals with disabilities. The funding priority would help alleviate this problem.

A State that wants to receive an extension grant must provide the same information and assurances (except the preliminary needs assessment) as for a development grant, as well as additional information and assurances. The Committee expands the additional assurances to reflect the emphasis on systems change, advocacy, protection and advocacy, and consumer-responsive, consumer-driven activities in the bill. In particular, the Committee wishes to stress the need for outreach to underrepresented populations and rural populations. Additionally, States must describe in their applications the steps they are taking to continue their technology-related assistance programs on a permanent basis as Federal funding is phased out.

This section is intended to heighten State accountability for specific outcomes. Currently, there is a lack of accountability by State administrators because there are not solid baselines of information and data with which to evaluate trends and progress. The baselines established here will assist in providing a foundation for policy makers, administrators, and individuals with disabilities to evaluate the level of increased access to funding, and to help create solutions to unresolved policy issues.

#### *Second extension grants*

In accordance with section 104 of the bill, Secretary may award a second, 5-year extension grant to any State that demonstrates to the Secretary that it made significant progress in developing and implementing a statewide program of technology-related assistance under its first extension grant consistent with the bill's purposes, requirements, and assurances described above. Absent significant progress, the Secretary can determine that a State not receive new funds.

As in section 103, the Committee instructs the Secretary to give priority to the 10 States that have the largest populations (as determined by the 1990 decennial census of the population), and States that are sparsely populated with a wide geographic spread, in providing any increases in State grants above the amounts for fiscal year 1993. The Secretary shall give such priority only where State population or geographic size has impeded the development of the State program of technology-related assistance.

The amounts and priority of second extension grants shall be the same as for first extension grants, except that each State's Federal funds will be phased out during its second extension grant. The amount given to a State for the fourth year of the second extension grant shall be 75 percent of the amount given in the third year. The amount given to a State for the fifth year of the second extension grant shall be 50 percent of the amount given in the fourth year. Ultimately, all participating States will have received Federal funding for a total of ten years, at which time such funding will end as the Committee intended when the Congress passed the Act in 1988. By giving States notice of when their Federal funding ends, the Committee intends to accelerate the progress by which

States will seek alternate funding sources from the public and private sectors.

A State that wants to receive a second extension grant must provide the same information and assurances (except the preliminary needs assessment) as for a development grant and a first extension grant.

#### *Progress reports*

Section 106 of the legislation provides that each State receiving a grant under this title must submit an annual report to the Secretary. The required contents of this report are expanded to reflect the emphasis on systems change, advocacy, protection and advocacy, and consumer-responsive, consumer-driven activities in the bill. They also are expanded to reflect the Committee's intention to demand greater accountability from the States.

The annual report must include: (1) identification of successful systems change activities to increase funding for assistive technology; (2) the degree of consumer satisfaction with and participation in the State program of technology-related assistance (particularly the satisfaction and participation of underrepresented populations and rural populations); (3) the degree of involvement of different State agencies in the development and implementation of the statewide program of technology-related assistance; (4) documentation of efforts to train personnel and individuals with disabilities; (5) documentation of information collection and dissemination activities which relate to systems change; (6) documentation of written notices of State and local agencies that have been developed or changed to inform individuals with disabilities about Federal requirements relating to assistive technology, particular under parts B and H of the Individuals with Disabilities Education Act and Title I of the Rehabilitation Act of 1973; (7) documentation of efforts to disseminate information to other States by means of electronic communication; (8) documentation of efforts to reduce service delivery time pursuant to section 102(d)(25); (9) documentation of the progress of the State's protection and advocacy contractee in providing legal representation for individuals with disabilities in their efforts to secure funding for assistive technology, and other services; and (10) documentation of efforts to disseminate information about interagency activities that promote the coordination of assistive technology services.

A State's protection and advocacy contractee also must report annually to the Secretary documenting its progress in providing protection and advocacy services. Additionally, such organization shall conduct a public hearing to ascertain the extent to which the State, which awarded the contract to the organization, is making significant progress in the development and implementation of a consumer-responsive, consumer-driven, comprehensive statewide program of technology-related assistance.

#### *Administrative provisions*

In section 107 of the bill, the Committee amends the administration provisions of the Act by adding a paragraph on the redesignation of State lead agencies. In a few rare instances, States have received Title I funds but have not acted to establish and implement

a program of technology-related assistance. While the Secretary currently has the power to terminate a State's Title I funding, the Secretary has been reluctant to do so in light of the lack of a provision in law by which a new State lead agency could be designated. Without such designation, the termination of funding only would serve to hurt individuals with disabilities.

Once a State becomes subject to a corrective action plan, the Governor, subject to approval by the Secretary, shall appoint a monitoring panel within 30 days. The panel will consist of the head of the State lead agency; two representatives from different non-profit organizations which represent the interests of individuals with disabilities; two individuals with disabilities who are users of assistive technology and who are not members of the State technology-related assistance program's advisory council nor employees of the State lead agency; and two service providers with expertise in assistive technology. The panel shall be ethnically diverse and shall choose its own chairperson.

The monitoring panel will receive periodic reports from the State regarding progress in implementing the corrective action plan. The panel has the authority to request additional information necessary to determine compliance. To determine compliance, the panel will hold meetings which are open to the public (subject to concerns of confidentiality) and held at locations which are accessible to individuals with disabilities. The panel will remain active for the entire period of the corrective action plan, as determined by the Secretary. The panel shall be funded by a portion of the State's Title I funds, as directed by the Secretary.

In the event that a Governor fails to appoint a monitoring panel, the State will lose its Title I funds until redesignation of the lead agency occurs pursuant to the open competition described below. However, this is not the only circumstance under which a State could lose its Title I funds.

Based on its findings, a monitoring panel may determine that the State lead agency is not fulfilling the purposes of the Act and that there is good cause for redesignation. Good cause could be the failure to employ qualified personnel; failure to conduct consumer-responsive, consumer-driven activities; failure to allocate resources to systems change activities; failure to make progress with meeting the assurances in section 102(d); or inadequate fiscal management. If good cause is found, the panel shall recommend to the Secretary that further remedial action be taken or that the Secretary order the Governor to hold an open competition as described below. Based on this recommendation, the Secretary shall make a final determination with respect to whether the State loses its Title I funds until lead agency redesignation, or whether further remedial action will be adequate to solve the problems of the State program of technology-related assistance.

If a State loses its Title I funds for either of the reasons described above, then the Governor of the State shall hold an open competition for lead agency redesignation and issue a request for proposals within 30 days after the loss of funds. The competition shall be open to other State agencies, public and private nonprofit organizations, consortia of such organizations, or institutions of higher education. The competition must ensure public involvement,

including a public hearing and adequate opportunity for public comment. The Secretary shall have final approval of the agency or organization designated after such competition.

The Committee also amends the administrative provisions by adding a paragraph on the redesignation of protection and advocacy services. The Committee intends that protection and advocacy services be given priority within State programs of technology-related assistance and that contracts be redesignated if significant progress is not achieved in this area. One year after the enactment of this title, and every year subsequent, the protection and advocacy contractee in each State must document its progress to the Secretary in specified areas. If the Secretary determines that significant progress has not been achieved, then the Secretary shall consult immediately with the Governor of the appropriate State. After such consultation, if the Secretary determines that remedial action is not adequate to correct the problem, the Governor shall hold an open competition for redesignation of the protection and advocacy contract and issue a request for proposals within 30 days. Such competition shall be open to entities which are capable of providing the same legal services and which have the same expertise as organizations established for protection and advocacy services under the Developmental Disabilities Assistance and Bill of Rights Act. The competition must ensure public involvement, including a public hearing and adequate opportunity for public comment.

The Committee instructs the Secretary to publish an annual report to the President and Congress on the activities funded under this Act and other Federal initiatives to improve the access of individuals with disabilities to assistive technology devices and services.

The Committee also instructs the Interagency Disability Coordinating Council (established under section 507 of the Rehabilitation Act of 1973) to prepare and submit to the President and Congress a report of the Council's response to the "Study on the Financing of Assistive Technology Devices and Services for Individuals with Disabilities" mandated by the Act in 1988. The report additionally will include a description of the activities of the Council that facilitate the accomplishment of section 2(b)(2) with respect to the Federal government. The report must be submitted on or before October 1, 1995.

#### *Information and technical assistance*

Under section 107, the Secretary shall provide information and technical assistance to the States and individuals with disabilities through grants, contracts, or cooperative agreements with public or private agencies and organizations (including institutions of higher education).

The Committee expands information and technical assistance to the States to enable them to share their cumulative experience from the past five years. Such information and technical assistance includes: the provision of a clearinghouse for activities that have been developed and implemented by the States and the Title II projects; assistance on effective approaches to outreach to underrepresented populations and rural populations; training to enable the States to communicate electronically with one another;

and other types of information and technical assistance. Technical assistance to the States is key to their ability to permanently carry on the work of Title I after it terminates.

The Committee adds information and technical assistance to individuals with disabilities to help carry out the mandates of advocacy and protection and advocacy. The Committee recognizes that most individuals with disabilities, or their families, do not have the knowledge or resources to make an appeal when denied assistive technology devices or services by a public agency. The establishment of a national technical assistance project with specific expertise in laws, policies, and procedures relating to assistive technology will meet this need. Its activities will lead to more consistent decision-making on funding at local and State levels and will stimulate greater Federal agency oversight and monitoring. The information and technical assistance provided to individuals with disabilities will include the dissemination of information on Federal, State, and local laws, as well as other types of information and technical assistance.

#### *Funding*

Section 108 of the bill authorizes the appropriation of \$50 million to carry out Title I in fiscal year 1994, and such sums as may be necessary for each succeeding fiscal year ending before October 1, 2002. Two percent of the funds appropriated in any fiscal year to carry out Title I, or \$1.5 million, whichever is greater, shall be reserved for the purpose of carrying out section 108 ("Technical Assistance").

This section further requires that the Secretary expend such amounts as may be necessary, from funds appropriated for salaries and expenses with respect to the Department of Education, for four additional full-time employees to be engaged in the administration of this Act. Currently, the National Institute on Disability Research and Rehabilitation (hereinafter "NIDRR") has only one full-time employee administering Titles I and II of this Act. With the greater accountability now demanded from the States and the accompanying reporting requirements, one full-time employee will no longer be sufficient.

#### *Title II—Programs of national significance*

The primary purpose of this Act continues to be support for State systems change activities to increase the access to assistive technology devices and services for individuals with disabilities. However, even in 1988, the Committee recognized that certain fundamental issues would have to be addressed on a national level. The Committee recognized the need to: collect and disseminate product, research, and technology-applications information; make such information available to professionals, service providers, and, most importantly, individuals with disabilities; foster training in fields related to the development and adaption of assistive technology devices and services; develop model research, development, and delivery systems for assistive technology; and develop and promote alternative financing strategies.

The original legislation addressed each of these issues. For instance, the legislation mandated the "National Assistive Tech-

nology Information & Program Referral Feasibility and Desirability Study," which examined the need for, and the feasibility of providing, a national information dissemination network. This study, submitted in 1993, found that such an effort was desirable and feasible, and made a number of critical recommendations on the implementation of such a plan. Additionally, the study cited a number of specific areas needing special consideration, including the need for outreach to underrepresented populations and the need to involve non-traditional service delivery providers, such as Historically Black Colleges and Universities (hereinafter "HBCU's"). The legislation also mandated the "Study on the Financing Assistive Technology Devices and Services for Individuals with Disabilities," which examined current laws, regulations, and policies which assist or impede the access to needed assistive technology devices and services, and offered recommendations for overcoming existing impediments. This study, submitted in 1993, also made a number of critical findings and recommendations. Both studies noted the need to develop a common set of definitions (or taxonomy) for assistive technology devices and services.

The Committee provisions for Title II build on the findings of these reports, the work of the RESNA Technical Assistance Project, NIDRR, and others, and the experiences of the States and the disability community. They focus on specific needs which will be most effectively fulfilled through national action.

All projects under this title should comport with the principles of full societal integration of all individuals with disabilities, accessibility, and the promotion of systems change.

#### *National classification system*

Section 201 of the bill requires the Secretary to develop a single taxonomy for identifying assistive technology devices and services and to use this taxonomy to support a national data collection effort encompassing uniform data on such devices and services. The Secretary also shall develop procedures for determining whether a particular device or service is an assistive technology device or service within the meaning of the Act.

Such procedures shall be developed in consultation with the Internal Revenue Service for purposes of enabling individuals with disabilities to claim tax credits and deductions for assistive technology which exist in the Internal Revenue Code, but which remain largely unused.

The Committee is fully cognizant of the problems and potential pitfalls inherent in this mandate. Several individuals or organizations have counseled "caution", usually by asking that the task be deferred or "studied."

However, the Committee also has heard from a number of sources, including the studies referenced above, States, and the disability community, that the lack of a single set of criteria by which assistive technology devices and services may be identified and defined may be the single greatest deterrent to increased access. Most Federal, State, and local agencies have different criteria or needs analysis factors for the same assistive technology devices. A computer program to provide augmentative communications capabilities may be referenced under as many as eight different terms or

definitions. Each different set of criteria governs State agency determinations such as the need for a particular assistive technology device or service and whether its expense will be defrayed by the particular agency making the determination. The existence of these differing criteria is regarded by many as the inevitable and reasonable consequence of the proliferation of programs created over time by differing entities to meet different concerns or responsibilities.

The Committee does not believe that the current situation is either inevitable or reasonable. As was stated in one study, such a situation substitutes the need of the program for that of the individual. It fosters fragmentation of services. It leads to frustration on the part of individuals with disabilities or their representatives, as they are forced to "forum shop" between agencies to find one with a "friendly" definition for an assistive technology device or service, then hope that they may convince the program personnel that they are eligible to receive consideration. It frustrates program personnel, who are either forced to alter the programs they have developed for their clients to meet a pre-determined set of "cookie-cutter" criteria, or refuse services altogether. It leads to increased paperwork and reduced coordination and cooperation within and between service delivery providers and inhibits systems change. Moreover, it is de-humanizing.

For these reasons, the Committee has rejected the call for the status quo, and set out a clear set of parameters for the Secretary. Working with the enumerated Federal agencies and programs, and others at the State and research levels who have expertise in this area, the Secretary will initially identify the types of assistive technology devices and services available to individuals with disabilities (including the full range of "high-technology" and "low-technology" examples) and compile a list of the terms used to describe each type under the current laws, regulations, and program guidelines. Then, working with the same groups, the Secretary is to develop a common registry or list of terms and categories (known as a taxonomy). Based on this taxonomy, the Secretary shall collect uniform data on assistive technology across public programs as set out in the bill. Finally, the Secretary is to develop a method for determining whether a particular device or service is an assistive technology device or service within the meaning of the Act. Such procedures shall be developed in consultation with the Internal Revenue Service for purposes of enabling individuals with disabilities to claim tax credits and deductions for assistive technology which exist in the Internal Revenue Code, but which remain largely unused.

The Committee notes that this work will not be prescriptive in nature—that is, it will not force changes on existing programs and will not alter any descriptions or characterizations required by statute. However, it will be important work in three respects: it will identify the scope of the current "Tower of Babel" state of affairs, and the areas in which simple administrative or policy changes may lead to improvements; it will allow Congress and the States to begin to review current laws and programs to determine where changes are needed and desirable and will allow such changes to be made; and, as the technology explosion continues, it will prevent policy makers from compounding the problem.



The Committee directs that the final product generated under this requirement be made available in a variety of formats responding to the needs of individuals with disabilities.

*Training and demonstration projects*

In the Committee's Report which accompanied the original Act, the Committee clearly set forth its determination with respect to the need for broad-based training and information dissemination: "The Committee believes that in order to develop and to implement effective programs in technology-related assistance for individuals, many groups, organizations, professionals, business associations, and consumer-related entities must be provided the opportunity to acquire knowledge about how technology can benefit individuals with disabilities." [H. Rept. 100-819, 100th Cong., 2d Sess. 48 (1988)].

The Committee reiterates its commitment to this principle, which time has shown to be correct. While the basic activities are unchanged, the Committee has expanded the list of eligible recipients of services to include guardians and advocates of individuals with disabilities, teachers and related services personnel, and technology experts (including engineers). These additions are consistent with the Committee's desire to see that such training and information dissemination is as wide-spread and inclusive as possible. The Committee directs that the activities undertaken pursuant to this part be, to the greatest extent possible, coordinated with the information dissemination and coordination activities under section 108 ("Technical Assistance").

The Committee requires that the projects under this part be held to the same consumer-responsive, consumer-driven standards applicable to the Title I programs; that the efforts of the Title II projects be coordinated with the activities of the Title I programs of technology-related assistance; and that the Title II projects make materials available in a variety of formats responding to the needs of individuals with disabilities.

*Technology careers*

The Committee has expanded the current provisions relating to the training of individuals for careers in the development and use of assistive technology devices and services. The thrust of these amendments has been to increase the participation in this career specialization on the part of a range of career paths, including engineering, industrial technology (which is particularly important to the implementation of the ADA), computer science, and social work.

The major changes are the stipulation of the fields of study to be supported and the requirement that priority considerations include the potential for the individual or the program to have a positive impact on the program of technology-related assistance in a given State.

The Secretary is specifically directed to reserve an "adequate amount" for grants to HBCU's and other institutions of higher education whose minority enrollment is at least 50 percent. The Committee recognizes the small percentage of individuals from underrepresented populations working in the fields encompassed in

this section, the disproportionately high number of such individuals in the disability population who are not receiving needed services, and the historic services provided by these institutions to members of underrepresented populations. Successful application of this provision will entail active outreach and technical assistance to these institutions by the Secretary. The Committee intends to carefully monitor this provision to see that it is executed.

*Recycling demonstration projects*

Two issues were repeatedly brought to the attention of the Committee during the hearing process. The first was the need for individuals with disabilities, service providers, and other technical personnel to have a place where they could see and compare a range of assistive technology devices and services. The existence of such a center would enhance the flow of information on what is most responsive to individual needs. The second issue was the need to establish a system, either through a series of central storage and distribution points or through a computer identification and tracking system, to determine the presence of assistive technology devices which may no longer be suitable for the needs of a particular individual, but which would meet the needs of others. Such a system would increase the accessibility of such devices and would cut costs by avoiding duplication, waste, and obsolescence.

The Committee is aware that several States have already recognized the benefits of such activities and have developed or are developing such programs. It wishes to encourage and build upon these efforts with this new activity.

Therefore, the Committee has authorized the Secretary to provide grants for the purposes of developing, establishing, and operating such device and equipment redistribution information systems and recycling centers. Expansion of these efforts is also an acceptable activity under this section. In making such grants, the Secretary will take into account the expertise and experience of the applicants. Grants are to yield products, systems, and experiences which may be replicated by other States, so that they may benefit from the work of others and avoid "reinventing the wheel". The list of authorized activities is broad and should be interpreted to be expansive.

To the extent that a project chooses to set up a recycling center, such center should be fully accessible and used to attract as many people as possible, since it could serve an important public awareness function. However, the value of the public awareness function must be weighed against the primary function of such a center—to be a place where individuals with disabilities can go to explore how specific assistive technology devices suit their needs.

The Committee wishes to stress three provisions. First, recycling centers may accept unconditional gifts of equipment from private manufacturers or for-profit entities. However, caution must be taken to avoid any appearance or reality of overreaching, including instances where recycling center activities become commercial opportunities for promoting one product or service at the expense of another. Second, all individuals with disabilities in the State in which the project is operating must have access to the project's

services. Third, provision of services under this section must not detract from the provision of services under other programs.

The Committee does not intend for these projects to be different in nature from those activities which a State may perform pursuant to section 101(c)(11) of this bill.

#### *Other projects*

The Committee has amended Title II of the Act to include three additional activities.

The Secretary is required to provide funds to an organization whose primary function is to promote technology transfer from, and cooperation among, Federal laboratories. Such technology "walk-overs" have become common in the development of many consumer products, but have lagged in becoming common in the development of assistive technology. The scale-down in Federal programs related to military hardware and procurement will provide many opportunities for growth in this area.

The Committee also authorizes the Secretary to make grants for the development of products of universal design, and for the development and marketing of assistive technology by businesses owned or operated by individuals with disabilities.

#### *Authorization of appropriations for Title II*

Section 221 of the bill authorizes the appropriation of \$10 million to carry out Title II in fiscal year 1994, and such sums as may be necessary for each succeeding fiscal year ending before October 1, 1998. \$200,000 of the funds appropriated to carry out Title II in fiscal years 1994 and 1995 shall be reserved to implement section 201(b) ("Single Taxonomy") of this title.

#### *Title III—Alternative financing mechanisms*

##### *Alternative financing mechanisms*

The Committee is deeply concerned with the lack of capacity across the Nation to deliver assistive technology devices and services to individuals with disabilities. The experience of established low-interest, consumer loan programs in some States, and in particular the success of such a program in Maine, demonstrates the effectiveness of alternative financing mechanisms to enable individuals with disabilities to secure assistive technology devices and services in an expeditious manner.

Under section 301, the Secretary shall award a one-time Federal matching grant to States, which receive or have received grants under Title I, to provide a Federal share for the establishment or expansion of State alternative financing mechanisms. The grants can be used to pay for the costs of providing and administering the mechanisms, and the States have a wide range of financing options from which to choose. The grants shall be provided on a dollar-for-dollar basis, for an amount not more than \$500,000. If a State only provides \$50,000 in matching funds, then the Federal Government also will provide \$50,000. The Committee instructs the Secretary to monitor this grant process to ensure that all States wishing to apply for funds under this title ultimately have the opportunity to administer an alternative financing mechanism.

States receiving grants under this title shall contract with community-based organizations (or consortia of such organizations), which have individuals with disabilities involved at all organizational levels, for the administration of their alternative financing mechanisms. Individuals with disabilities and their families have a vested interest in ensuring that loans are paid back to community-based organizations with which they are directly involved. So it is vital to the success of this title that community-based organizations be directly involved in the administration of any alternative financing mechanism.

Equally important to this title's success is the expertise of commercial lending institutions or State financing agencies. Grants will be given to States only if the selected community-based organization enters into a contractual relationship with a commercial lending institution or State financing agency for the purpose of administering the alternative financing mechanism.

States wishing to receive grants under this title must assure the Secretary that their alternative financing mechanisms will continue on a permanent basis once the Federal share is expended. They also must assure the existence of a procedure by which requests of individuals with disabilities for financial assistance will be met in a timely fashion. Furthermore, they must assure that individuals with disabilities will have access to financing regardless of type of disability, income level, age, location of residence, or type of assistive technology requested. Finally, States must assure that mechanism oversight will be consumer-controlled.

The Committee intends that funds made available to individuals with disabilities pursuant to this title be distributed as a payer of last resort when assistance is not available in a timely manner from any other Federal, State, or local source.

The Secretary shall monitor the progress of alternative financing mechanisms by collecting the following data: (1) the number of Federal grant applications received; (2) the number of Federal grants made; (3) the ratio of Federal funds to State funds for each alternative financing mechanism; (4) type of alternative financing mechanism in each State and identification of the administering community-based organization; and (5) the amount of assistance given in each State by age, type of disability, type of assistive technology device or service received, geographic distribution, gender, member of an underrepresented population, and member of a rural population.

Section 302 authorizes the appropriation of \$8 million to carry out Title III in fiscal year 1994, and such sums as may be necessary for each succeeding fiscal year ending before October 1, 2002. \$250,000 of the funds appropriated in fiscal year 1994, and such sums as may be necessary thereafter, shall be reserved to provide States with technical assistance for writing grant applications and establishing alternative financing mechanisms once applications have been approved.

*Title IV—Amendments to other acts**Individuals With Disabilities Education Act*

This section amends the Individuals With Disabilities Education Act to include personnel training in the use, applications, and benefits of assistive technology devices and services.

*Rehabilitation Act of 1973*

This section amends the Rehabilitation Act of 1973 to include personnel training in the use, applications, and benefits of assistive technology devices and services.

*Title V—Effective date*

It is the Committee's intent that this Act take effect on October 1, 1993, or on the date of its enactment, whichever occurs later.

## OVERSIGHT STATEMENT

In compliance with clause 2(1)(3)(A) of rule XI(d) of the Rules of the House of Representatives, this report embodies the findings and recommendations of the Select Education and Civil Rights Subcommittee, established pursuant to the rules of the Committee on Education and Labor. Pursuant to its ongoing oversight responsibilities, the Committee has determined that legislation should be enacted as set forth in H.R. 2339.

## INFLATIONARY IMPACT STATEMENT

In compliance with clause 2(1)(4) of rule XI(d) of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 2339 into law will increase the productivity of individuals with disabilities, reduce their reliance on State and Federal programs, and will have a positive impact on inflation, as it relates to the national economy.

OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE  
ON GOVERNMENT OPERATIONS

In compliance with clause 2(1)(3)(D) of rule XI(d) of the Rules of the House of Representatives, the Committee states that no findings or recommendations of the Committee on Government Operations were submitted to the Committee.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The Committee requested a cost estimate on the H.R. 2339 from the Congressional Budget Office to be included in this report. The estimate had not been received at the time of filing.

## SECTION ANALYSIS

- Section 1—Short Title; Table of Contents.
- Section 2—Findings and Purposes.
- Section 3—Definitions.

*Title I—Grants to States**Section 101—Program authorized*

This section requires the Secretary of Education (hereinafter "Secretary") to make grants to States for the development and implementation of consumer-responsive, consumer-driven comprehensive statewide programs of technology-related assistance. States receiving such grants must perform systems change activities; certain consumer-responsive, consumer-driven activities; advocacy services; and protection and advocacy services. Additionally, States may perform other activities designed to accomplish the purposes of this Act, such as information and program referral services, personnel training, demonstration of assistive technology devices, and establishing device and equipment redistribution information systems and recycling centers.

*Section 102—Development grants*

This section requires the Secretary to award a 3-year grant to participating States for the initial development and implementation of consumer-responsive, consumer-driven comprehensive statewide programs of technology-related assistance. States that desire to receive such a grant must submit an application to the Secretary containing certain information and assurances.

*Section 103—Extension grants*

This section allows the Secretary to award a 2-year extension grant to States that can demonstrate that significant progress has been made in the development and implementation of a consumer-responsive, consumer-driven comprehensive statewide program of technology-related assistance.

*Section 104—Second extension grants*

This section allows the Secretary to award a 5-year extension grant to States that can demonstrate that significant progress has been made in the development and implementation of a consumer-responsive, consumer-driven comprehensive statewide program of technology-related assistance. Federal funds granted to States under this section will be reduced to 75 percent of the grant amount in the fourth year of the extension period and 50 percent in the fifth year, after which time Federal funding under this title sunsets.

*Section 105—Progress reports*

This section requires States receiving a grant pursuant to this title to submit an annual report to the Secretary which documents that significant progress has been made in the development and implementation of a consumer-responsive, consumer-driven comprehensive statewide program of technology-related assistance.

This section also requires organizations which are awarded a contract to provide protection and advocacy services pursuant to section 101 to make significant progress in providing such services. Each of these organizations shall submit an annual report to the Secretary documenting such progress. Additionally, each of these organizations shall conduct a public hearing to ascertain the extent

to which the State, which awarded the contract to the organization, is making significant progress in the development and implementation of a consumer-responsive, consumer-driven comprehensive statewide program of technology-related assistance.

*Section 106—Administrative provisions*

This section requires the Secretary to establish a system to assess the extent to which States receiving grants are making significant progress in the development and implementation of consumer-responsive, consumer-driven comprehensive statewide programs of technology-related assistance.

If a State fails to comply with the requirements of this title, it shall be subject to a corrective action plan. If the State does not comply with such plan, the State may temporarily lose its funding under this title until a new lead agency or organization is designated by the Governor of the State pursuant to an open competition.

If an organization, which is awarded a contract to provide protection and advocacy services pursuant to section 101, does not make significant progress in providing such services, then the Secretary shall consult with the Governor of the State which awarded the organization its contract. After such consultation, if the Secretary determines that remedial action is not appropriate, the Governor shall redesignate the contract pursuant to an open competition.

This section also requires the Secretary to issue an annual report to the President and the Congress on activities funded under this Act and other Federal initiatives to improve the access of individuals with disabilities to assistive technology devices and services.

*Section 107—Information and technical assistance*

The Secretary shall provide information and technical assistance to States and individuals with disabilities through grants, contracts, or cooperative agreements with public or private agencies and organizations.

*Section 108—Funding*

This section authorizes the appropriation of \$50 million to carry out Title I in fiscal year 1994, and such sums as may be necessary for each succeeding fiscal year ending before October 1, 2002. 2 percent of the funds appropriated to carry out Title I in any fiscal year, or \$1.5 million, whichever is greater, shall be reserved for the purpose of carrying out section 108.

This section further requires the Secretary to expend such amounts as may be necessary, from funds appropriated for salaries and expenses with respect to the Department of Education, for four additional full-time employees to be engaged in the administration of this Act.

*Title II—Programs of National Significance***Part A—National Classification System***Section 201—National classification system*

This section requires the Secretary to develop a national taxonomy for assistive technology devices and services; collect uniform data across public programs; and develop procedures for determining whether devices and services meet the definition of assistive technology devices and services pursuant to this Act.

**Part B—Training and Demonstration Projects***Section 211—Training grants*

This section requires the Secretary to enter into contracts or cooperative agreements with non-profit or for-profit entities or institutions of higher education to train individuals in the provision of technology-related assistance. The Secretary is also required to make grants to institutions of higher education to prepare students and faculty for careers relating to the provision of technology-related assistance.

In making the grants required by this section, the Secretary must reserve an adequate amount for grants to Historically Black Colleges and Universities and other institutions of higher education whose minority student enrollment is at least 50 percent.

*Section 212—Technology transfer*

This section requires the Secretary to provide funds to an organization whose primary function is to promote technology transfer from, and cooperation among, Federal laboratories.

*Section 213—Recycling demonstration projects*

This section requires the Secretary to make grants to, or enter into contracts or cooperative agreements with, public agencies, non-profit or for-profit entities, or institutions of higher education for the purpose of establishing recycling demonstration projects.

*Section 214—Business opportunities for individuals with disabilities*

This section allows the Secretary to make grants to individuals with disabilities to enable them to establish or operate commercial or other enterprises that develop or market assistive technology devices or services.

*Section 215—Products of universal design*

This section allows the Secretary to make grants to commercial or other enterprises, or institutions of higher education, for the research and development of products of universal design. Preference would be given to those enterprises or institutions which are owned or operated by individuals with disabilities.

*Section 216—Governing standards for part B projects*

This section states that projects receiving funds under this part shall be held accountable to the consumer-responsive, consumer-



driven standards of Title I; coordinate their efforts with the Title I program in the State or States in which they operate; and make materials available in a variety of formats which respond to the needs of individuals with disabilities.

### **Part C—Authorization of Appropriations**

#### ***Section 221—Authorization of appropriations***

This section authorizes the appropriation of \$10 million to carry out Title II in fiscal year 1994, and such sums as may be necessary for each succeeding fiscal year ending before October 1, 1998. \$200,000 of the funds appropriated to carry out Title II in fiscal years 1994 and 1995 shall be reserved to implement section 201(b) ("Single Taxonomy") of this title.

### ***Title III—Alternative Financing Mechanisms***

#### ***Section 301—Alternative financing mechanisms authorized***

This title requires the Secretary to award one-time grants to States for the establishment of alternative financing mechanisms through which individuals with disabilities can obtain funds to purchase assistive technology devices and services. Each grant will be for an amount not more than \$500,000 and will be contingent on state matching funds of an equal or greater amount.

This title authorizes the appropriation of \$8 million to carry out Title III in fiscal year 1994, and such sums as may be necessary for each succeeding fiscal year ending before October 1, 2002. \$250,000 of the funds appropriated to carry out Title III in any fiscal year shall be reserved to provide States with technical assistance for writing grant applications and establishing loan programs once applications have been approved.

### ***Title IV—Amendments to Other Acts***

#### ***Section 401—Individuals With Disabilities Education Act***

This section amends the Individuals With Disabilities Education Act to include personnel training in the use, applications, and benefits of assistive technology devices and services.

#### ***Section 402—Rehabilitation Act of 1973***

This section amends the Rehabilitation Act of 1973 to include personnel training in the use, applications, and benefits of assistive technology devices and services.

#### ***Section 403—Technical and conforming amendments***

### ***Title V—Effective Date***

#### ***Section 501—Effective date***

This section states that the law shall be effective on October 1, 1993, or on the date of its enactment, whichever occurs later.

## ADDITIONAL MINORITY VIEWS

H.R. 2339, the Technology-Related Assistance for Individuals with Disabilities Act Amendments of 1993, makes several changes in the current law to strengthen activities States are doing in order to make assistive technology devices and services available to individuals with disabilities. Most importantly, H.R. 2339 has a sunset provision repealing this program in fiscal year 2002. This will allow all States to participate in this program for a total of ten years with a phase out of Federal dollars in years nine and ten.

When the Technology-Related Assistance Act was enacted in 1988 with bipartisan support, Congress intended to provide Federal seed money to States to help develop a statewide system that makes assistive technology accessible and available to individuals with disabilities. The goal being that once that was accomplished, this Federal program would no longer be needed. We, therefore, support the sunset provision.

We also support the new provision creating a one-time Federal matching grant to States to develop alternative financing systems in order for individuals with disabilities to access financial assistance in order to purchase assistive technology devices. This Federal investment will be no more than \$500,000 per State and will be matched dollar-for-dollar by the State. The State will have the authority to decide what type of alternative financing system to develop, such as a low interest loan or a revolving loan program, and will be required to have commercial lending institutions or State financing agencies jointly administer the program with a community-based organization. This will ensure the expertise of both financial lending and the assistive technology needs of individuals with disabilities. The Federal dollar will only provide seed money to help assist States develop their own alternative financing system, and such a system must be the payor of last resort. We believe this provision is essential if we expect individuals with disabilities to purchase assistive technology and lead independent and productive lives.

Assistive technology does make a difference in the lives of individuals with disabilities by providing them the opportunity to live independent and productive lives. H.R. 2339 will continue to help make such assistive technology more accessible and available to individuals with disabilities. We support this legislation.

BILL GOODLING.  
TOM PETRI.  
HARRIS W. FAWELL.  
CASS BALLENGER.  
BILL BARRETT.