

National Rehabilitation Association

Final Report of the
Reauthorization Task Force

January 17, 2003

FINAL REPORT OF THE REAUTHORIZATION TASK FORCE

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Acknowledgements (need to juice this up a bit)

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THE REHABILITATION ACT . . . REAUTHORIZATION

TITLE I

Issue I (a): Reauthorization, Funding & Administration

Title I of the Rehabilitation Act has a proven track record for over 82 years. The long history of this legislation has shown that the VR Program is successful in assisting individuals with disabilities to obtain and maintain gainful and competitive employment. The recently released Longitudinal Study of the Vocational Rehabilitation Program, which studies outcome factors over a number of years, supports the proven fact that the VR Program works.

Applicable Section in the Rehab Act:

Recommendations:

I(a)(1) Title I of the Rehabilitation Act of 1973, as amended, should be reauthorized.

I(a)(2) The Vocational Rehabilitation Program, authorized under Title I, should continue to have a dedicated funding stream with adequate funding appropriated to meet the needs of eligible individuals with disabilities who wish to engage in employment outcomes.

I(a)(3) The DSU should be the required entity to administer Title I of the Rehabilitation Act, rather than the DSA when the DSU is housed in a larger umbrella agency.

Issue I (b): Federal Definitions

There is a need to assure valid data collection and consistency of service provision among states administering Title I. Currently, states are free to develop their own definitions of “most significantly disabled” which vary from state to state.

Applicable Section in the Rehab Act:

Recommendations:

I(b)(1) A federal definition of “most significantly disabled” must be developed for program consistency among states and to ensure the collection of valid data on the number and characteristics of individuals with the most significant disabilities being served by the public rehabilitation program.

I(b)(2) Modify the definitions in the Act for “individual with a significant disability” and “individual with a most significant disability” and use both terms in all states, rather than using “most significant” only in those states under an order of selection. NRA

suggests that both definitions continue to focus on functional limitations that are tied to work.

NRA recommends the following language:

Sec. 6(21)(B) (21) INDIVIDUAL WITH A SIGNIFICANT DISABILITY--

(A) IN GENERAL.--Except as provided in subparagraph (B) or (C), the term " individual with a significant disability means an individual with a disability--

(i) who has a severe physical or mental impairment which seriously limits one ~~or more~~ functional capacities (such as mobility, communications, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

(ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(iii) who has one or more physical or mental disabilities resulting from amputation, ...

Sec. 6(21)(E) INDIVIDUAL WITH A MOST SIGNIFICANT DISABILITY.—

(i) IN GENERAL.—The term “individual with a most significant disability,” ~~used with respect to an individual in a State, means an individual with a significant disability who meets criteria established by the State under section (101(a)(5)(C))~~ means an individual with a disability--

(i) who has a severe physical or mental impairment which seriously limits two or more functional capacities (such as mobility, communications, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

(ii) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(iii) who has one or more physical or mental disabilities resulting from amputation, ...

Issue 1 (c): Order of Selection/Funding

Title I has been level funded for several years. Unmet need has been amply documented.

Applicable Section in the Rehab Act:

Recommendation:

I(c)(1) There should be a federally defined and required “Order of Selection” for consistency among states, or enough funding to assure service provision to all individuals with disabilities who apply and meet the criteria for eligibility.

Issue 1 (d): Personnel Qualifications

It is logical to assume that the Comprehensive System of Personnel Development (CSPD) initiatives should reach all public vocational rehabilitation program personnel, regardless of position in the organization.

The public program of rehabilitation requires demonstrated leadership abilities and skills and full understanding of consumer involvement, public policies related to the vocational rehabilitation of individuals with disabilities and the demonstrated ability to work in partnership with other government programs, community organizations and employers. The Workforce Investment Act, the Social Security Administration's "Ticket to Work" implementation, the New Freedom Initiative, the Transition Initiatives of IDEA and the other federal and state initiatives related to vocational rehabilitation, employment and independent living programs for individuals with disabilities require demonstrated competency of the Designated State Unit's (DSU) full-time Director. The increased importance of working at the state and community level of vocational rehabilitation requires a Director who is competent and professionally and personally knowledgeable about the public program of rehabilitation and emerging public policy considerations and changes.

Applicable Section in the Rehab Act: Section 7, Section 101 (a) (7), Section 101 (a) (2) (B) (ii) (II) – Amend Section 101 (Designated State Unit) by inserting the term “qualified” before the words “full-time Director.”

Recommendations:

I(d)(1) The issue of qualified rehabilitation professionals should extend to the requirements of the VR Director administering the Title I VR Program for any state.

I(d)(2) NRA recommends that Congress direct by statute that the Rehabilitation Services Administration immediately develop regulations that define the minimum competencies and expertise for the full-time Director in each DSU. These competencies must include, at a minimum:

- at least five years in a senior administrative position in either state or federal government or in the community sector directing employment and/or independent living programs for adults with disabilities
- academic qualifications equivalent to or exceeding the qualifications for qualified rehabilitation personnel as currently defined in the Act and regulations
- demonstrated knowledge and experience in working with community partners and organizations including employers, community rehabilitation organizations, consumer-based organizations and federal and state organizations addressing the needs of individuals with disabilities.

Issue I (e):

Inclusion of the Rehabilitation Program as Title IV in the Workforce Investment Act has not resulted in systematic coordination, nor an expansion of services, to individuals with disabilities not requiring the fuller range of services available from Rehabilitation.

Applicable Section in the Rehab Act:

Recommendations:

I(e)(1) The State Workforce Investment Boards should have a mandated requirement to have at least one seat for an individual with a disability.

I(e)(2) The State Workforce Investment Boards should have a mandated requirement to have a least one seat for an employee of the DSU, preferably the VR Director or his/her designee, who has day-to-day responsibility for the administration of the Public Rehabilitation Program.

Issue I (f):

Some proponents have suggested consolidation of the Rehabilitation Program into the Workforce Investment Act. An audit report issued by the General Accounting Office in February 2002 contains findings critical of the start up of WIA.

The current Title I program is operating successfully as evidenced by the recent longitudinal reports issued by the Research Triangle Institute (RTI). There is no proven track record of serving individuals with significant disabilities within Department of Labor funded programs.

Applicable Section in the Rehab Act:

Recommendations:

I(f)(1) Title I of the Rehabilitation Act is a prescriptive employment-training program and therefore, should not be consolidated into generic employment training programs to save money.

I(f)(2) State vocational rehabilitation programs should contribute to One-Stop Centers on a cost allocation basis tied to actual usage, rather than any “off-the-top” percentage of the VR appropriation being set aside to support the infrastructure of the One-Stop service delivery system.

Issue I (g): Grants to Native American tribes

Section 121 of Title I authorizes project grants to governing bodies of Native American tribes. The grants are time limited and thus create uncertainty about continuation funding.

Applicable Section in the Rehab Act: Section 121

Recommendation:

I(g)(1) NRA supports the Consortia of Administrators for Native American Rehabilitation (CANAR) recommendation that American Indian VR programs (AIVR) should receive permanent funding, rather than funding for a five-year temporary grant period, as long as the programs perform acceptably as measured by standards and indicators that should be developed for the programs. This strategy is similar to funding Centers for Independent Living (CILs) in §722(e)(1) of the Act. Each AIVR program that is funded on September 30, 2003 should receive continued funding so long as the program is performing acceptably against standards and indicators.

THE REHABILITATION ACT . . . REAUTHORIZATION

TITLE II and III

Principles to Promote Across Titles II and Title III

Our review of the two titles brings forth common concerns with respect to whether, and/or how well, Congress intends (a) to derive a scientific basis for understanding and resolving underlying social, behavior, economic, and systemic issues faced by people with disabilities and (b) to provide such services as are deemed appropriate to achieving quality outcomes for individuals with disabilities by responsible and qualified personnel and organizations. The Rehabilitation Act provides broad authority to the Rehabilitation Services Administration (RSA) and to the National Institute for Disability and Rehabilitation Research (NIDRR) to conduct a broad range of projects, programs, and sponsored activities to establish both the knowledge base and the development of the human resources needed to meet the needs of individuals with disabilities.

The Act is unique in that it considers not only mechanisms to deliver desired services, but the fundamental need to establish and maintain a contemporary evidence-driven knowledge base for what is to be pursued through policy and practice. Across 75 years, the Act has increasingly become America's cornerstone for policy and responsible assignment of public resources to meet the obligations and expectations for America's citizens with disabilities. In the present, we should adopt and pursue principles within this re-authorization of the Act that materially move American society forward through science, effective practices, and social policy as embodied within the Americans With Disabilities Act, related legislation and the Rehabilitation Act.

Titles II and III are directed to ensure a quality infra-structure of resources (knowledge, practice, human) that provide a foundation for the goals of the Act and public and private sector service delivery. In this spirit, we propose three core principles with respect to the responsibility and accountability of the Rehabilitation Services Administration and the National Institute for Disability and Rehabilitation Research:

- Increase coordination between NIDRR and RSA in support of the goals of the Rehabilitation Act.
- Increase consumer and field input into setting priorities and goals for programs and authorities included under Titles II and III.
- Increase consumer and affected constituency input into evaluation of all programs sponsored under Titles II and III.

Our recommendations for including language and changes to the current Act are in response to these three principles and their full reflection in the conduct of grants and activities sponsored by the NIDRR and the RSA.

Issue II/III (a): Human Resource Development

If the Rehabilitation Act is to achieve employment goals intended throughout its enabling legislation and that of such related programs as IDEA, TANF, WIA and TWWIA, current personnel shortages must be alleviated through full funding for training programs currently authorized by the Act. Shortages of qualified personnel across related disciplines are expected to increase as the current generation of educators, leaders, mentors, and most highly experienced practitioners and administrators retire from the field. RSA and NIDRR must aggressively plan and advocate for solutions to this issue. Knowledge, innovation, practice, and personnel with qualifications and essential experiences and sensitivity to the needs and goals of individuals with disabilities must be at the cornerstone of the NIDRR's and the RSA's strategic, long-range planning. Major infusions of public funding must be acquired to ensure that there is infra-structure throughout the public and private sector to meet both the societal and humanistic goals represented in the Rehabilitation Act and related legislation.

Recommendation:

II/III(a)(1) NRA supports significant additional funding for both short-term and long-term training.

Issue II/III (b): Preparation and Training of Rehabilitation Researchers

New knowledge and valid practices derives through the authorities of the NIDRR in applied research and for demonstration authorities assigned to the RSA. Academic training programs for doctoral level rehabilitation personnel, include responsibilities for preparing future researchers and the NIDRR provides for fellowship and advanced training of rehabilitation researchers through its post-doctoral projects and centers programs. Research centers and academic programs alike report continued shortages of professionals and paraprofessional trained to conduct and apply research to the improvement of rehabilitation practices. Increasing accreditation and professional standards place greater premium on professional competence and more terminal rehabilitation training programs are down-playing training in research practice, including elimination of the master's thesis as a requirement. Increasingly, trained researchers are solicited from outside the disability and rehabilitation communities and the supply of highest competent rehabilitation researchers who are culturally sensitive and derive their experiences within disability issues is increasingly in short supply. New knowledge that comes from valid research that meets highest professional standards and conducted within applied settings by highly qualified research personnel is essential. Priority and authority to attract, train, and bring these personnel into the professions is of considerable need if we are to continue to develop, apply, and advance the options for individuals with disabilities.

Applicable Section of the Rehab Act: Section 302 (b) Grants and Contracts for Academic Degrees and Academic Certificate Granting Training Projects (1) Authority (B) Types of Projects.

Recommendations:

II/III(b)(1) Modify Section 302 to include “rehabilitation researchers” as a target for training projects.

II/III(b)(2) Add language to Section 302 to authorize projects to train personnel in various roles to work with unserved and underserved populations, including but not limited to personnel to engage in applied research.

Issue II/III (c): Establish a Feasible Comprehensive System of Personnel Development that Bridges Public and Private Rehabilitation Service Sectors

Rehabilitation services must be provided by personnel who meet the highest professional standards, as set by appropriate accrediting bodies. This requirement has largely been directed toward personnel providing rehabilitation counseling and case management within the designated state unit. The intent of the Act, however, extends beyond those two areas of service. It is Congressional intent that all personnel that provide services to individuals with disabilities should be fully qualified and that similar standards apply. It has long been a broadly supported principle that services purchased with public funds should be from vendors and practitioners skilled in the delivery of quality services.

A Comprehensive System of Personnel Development (CSPD) requirement extended to service sectors beyond the DSU in principle is desirable and should be pursued. Extending CSPD requirements to the private sector requires adequate study to evaluate feasibility, impact upon the provider community, and to define alternatives to recruitment, training, and maintenance of a fully qualified workforce among those service disciplines that vend services to the public program. A comprehensive manpower and resource development study should be conducted as a precursor to adopting public policy that realizes the full intent of the Congress for quality outcomes through quality rehabilitation processes.

Applicable Section of the Rehab Act: Section 301 [training to ensure that skilled personnel are available across all sectors]; and Section 301 [special projects and demonstrations to achieve those ends]; Section 303 special studies and evaluation]; and Section 100 [CSPD in the State Plan for DSU] and Section 100 [Commissioner shall conduct evaluation studies for “...establishing standards and certification for community

Recommendation:

II/III(c)(1) NRA proposes a specific demonstration authority to explore creating the capacity to recruit, prepare, and maintain qualified personnel in delivery of quality services throughout the related systems that provide services to consumers from the public rehabilitation program (i.e., especially CRPs). This demonstration authority should include, but not be limited to, ascertaining (a) required skills and competencies; (b) conditions, likely impacts, and requirements to effect systemic goals; (c) alternative approaches to achieving such recruitment and training goals; and (d) estimated resources and timelines to achieve desired levels of quality across primary related service sectors.

Issue II/III (d): The NIDRR Director Should be a Presidential Appointment

The National Institute for Disability and Rehabilitation Research (NIDRR) is the agency charged with coordinating disability and rehabilitation research across federal agencies. These agencies include distinguished entities such as the National Institutes of Health, the National Institute for Mental Health, and other bodies with significant resources to achieve basic and applied research objectives. Among the federal agencies, the NIDRR is the only agency that is charged by the Congress to promulgate and achieve a research agenda that has direct application to service delivery and/or the lives of individuals with disabilities. Other federal agencies are accorded the prestige of having their Directors responsible to the President and unimpeded by agendas of other Secretaries and Assistant Secretaries of the respective Departments within which they are housed. There are issues of both parity among Institutes and of practical effectiveness in meeting Congressional intent.

Further, the applied issues which NIDRR addresses are of considerable magnitude and of sustained value for the 55 million individuals with disabilities who may be capable of living, working, and contributing within their communities. The research programs of the NIDRR have the potential to influence both the conditions in which individuals with disabilities exist and to materially change those conditions. These issues, therefore, are at least equal in importance to the American people, as is research that may mitigate the consequences of disease, trauma, and genetically determined physical conditions. It is equally important that quality of living across our life spans is accorded equal status to that of preserving the corporeal condition of the human body.

Whereas Directors of other federal research Institutes may function with considerable latitude and objectivity in fulfilling Congressional intent, it is the experience of Secretarial appointees that priority setting and decision-making are strongly influenced by the pragmatism and current agendas of the Department and Office in which their appointments reside. This condition is not appropriate to developing and sustaining a research agenda predicated upon scientific discovery that will reflect the broadest public need and likely lead to solutions to sustained problems faced by people with disabilities .

Applicable Section of the Rehab Act: Section 202 [appointment by Secretary of Education] and Section 3 [establishes the Commissioner position as a presidential appointment and specific language describing Commissioner’s appointment and authority]

Recommendation:

II/III(d)(1) Selection and appointment of the Director for the National Institute on Disability and Rehabilitation Research in the U.S. Department of Education should be made by the President on par with directors of other research institutes that support research of national significance. Recommendation should be forged from language for appointment of the RSA Commissioner (see Sec. 3. Findings; Purpose; Policy for the Rehabilitation Services Administration) and imbedded prominently as a section as “Section 202 (b) Director of the Institute” to precede all other sections that describe functions and organization of the Institute.

Issue II/III (e): Maintain Integrity of Titles II and III and Increase Interdependence of Efforts of the RSA and the NIDRR

There is considerable need to increase the coordination of efforts between the two agencies authorized by the Act. Research, demonstration, and training initiatives contribute in a systematic manner to expanding applied knowledge about resolution of issues of disabilities and improvements in the effectiveness and efficiency of rehabilitation, social, psychological, and behavioral services to people with disabilities. While the NIDRR is required to establish, operate and report on progress respective to a long-range plan based upon significant input, the RSA’s training and demonstration authorities are developed in the short-term with unspecified field, consumer, or constituent input. Whereas NIDRR is required to have an advisory committee to provide constituent input to its priority setting and overall evaluation, RSA is not. Further, there is limited evidence that priority setting for research, personnel development, program development, and/or demonstrations is in any respect coordinated between the two resources to the public program.

There are extreme levels of need for scientifically and socially valid practices that increase integration and economic participation of people with disabilities. There are concomitant needs for increased numbers of qualified rehabilitation personnel and increased numbers of qualified practitioners in related disciplines to work in various disability and rehabilitation roles. It therefore behooves us to foster interdependence along functional lines that will combine the considerable and unique capabilities of these two agencies toward the goals and intents of the Act.

Applicable Section of the Rehab Act: Sections 200 and Sections 300, inclusive and in specific Section 205 (a) Establishment and (b) Duties of the Rehabilitation Research Advisory Council.

Recommendations:

- II/III(e)(1) Increase the requirements for coordination and connectivity between RSA and NIDRR in support of primary functions of services, research, development, and advocacy through the public and private sector authorities of the act.
- II/III(e)(2) Expand role of the NIDRR Rehabilitation Advisory Council to include coordinated priority setting and long-range planning for the NIDRR and RSA. Expand the purpose of the NIDRR “Rehabilitation Research Advisory Council” to that of a “National Rehabilitation Advisory Council” to advise on coordination of research, development, and training respective to Titles II and III. Section 205 be replaced with “enhanced authority to include related Title III functions in capacity
- II/III(e)(3) Provide adequate funding for the National Rehabilitation Advisory Council to execute it’s responsibilities.
- II/III(e)(4) Joint Priority Setting and Utilization of Field and Consumer Input. Develop specific charges to members of the Advisory Council to include consumer and constituent input into identifying priorities; setting forth coordinated research, development and training plans for the NIDRR and RSA; development of articulated 5-year plans for each agency; and methods for acquiring input, review, and reporting to the Congress on the agency’s accomplishments pursuant to those plans.
- II/III(e)(5) Require a Long-Range Plan for the RSA’s Personnel Development and Demonstration Authorities. Add specific language that RSA be required to develop and publish a long- range plan (5 years) for capacity building including demonstration projects, training (long- term, short-term) and special projects.

Issue II/III (f): Annual Cost of living Adjustments and Full Funding for All Authorities under the Rehabilitation Act

The Rehabilitation Act authorities and requirements are not fully funded to achieve the express intent of the Congress. While the basic state grants program has received modest increases pegged to the CPI, support for other titles has not kept pace with cost, requirements, and expanding authorities assigned to the RSA and the NIDRR. In particular, research, training, development, advocacy, employment resources, and independent living expectations have been flat funded for nearly 15 years. This flat funding is most notable in RSA infra-structure supports (personnel development, independent living, employment) and in NIDRR core research programs (research centers of excellence, field initiated research, special demonstrations). All increases over the period to OSERS adult rehabilitation and disability budgets have been as transfers of authorities (e.g., state technology grants programs) and to address specific new initiatives of priority to successive Republican and Democratic administrations. In 2002, most research, training, and advocacy projects funded by RSA and NIDRR are doing more

with 33% of the purchasing power of like programs in 1990. This limitation is further exacerbated by the need for additional service capacity, expanded research, and goal to maximize the potential of individuals with disabilities to be full economic participants in their communities. Graduated increases in federal support are necessary to keep pace with increasing costs required to achieve Congressional intent. Precedent for such CPI cost adjustments are presently found for the Title I program authorized under the Rehabilitation Act and for research and development projects funded through the National Institutes of Health.

Applicable Section of the Rehab Act:

Sections 100 [state grants program], Section 200 [research], Section 300 [training and demonstration], Section 500 [rights and advocacy], Section 600 [employment opportunities], Section 700 [independent living]

Recommendation:

II/III(f)(1) Cost of living adjustments across ALL titles is recommended for all programs authorized under the Act. Likewise, regulatory or legislative language should be introduced to permit annual cost of living increases to budgets of multi-year projects to reflect increased cost-of-operations over the full project period.

Issue II/III (g): Maintain Current Statutory Limits on Indirect Rates Which Apply to Grants and Awards under Titles II and III

The Rehabilitation Act set indirect rates for training grants and cooperative agreements at 8% of total direct costs, 15% for research and training center grants, and to negotiated rates for all other competitive grants and cooperative agreement with the RSA and the NIDRR. These rates are favorable to awarding of grants and cooperative agreements to institutions that place a highest priority and premium on preparing personnel to work in the public program and to conducting long-term programmatic research on issues of significance in disability and rehabilitation.

Applicable Section of the Rehab Act: Titles II and III.

Recommendation:

II/III(g)(1) NRA recommends no change to the statutory indirect rate caps for training grants and cooperative agreements (8% of total direct costs and 15% for research and training center grants) and to negotiated rates for all other competitive grants and cooperative agreements with RSA and NIDRR.

Issue II/III (h): Third-party Appeals and Redress for Competitive Awarding of Grants from the RSA and NIDRR

Applicable Section from the Rehab Act: Section 202 (f) (2) [scientific peer review and awards making through NIDRR] and Section 301 [awards making for personnel preparation from RSA].

Recommendation:

II/III(h)1 There is a third party appeals process for state plans that may be used as a model for appeals of peer review and agency awards making. See Section 107 (d) (1) [petition process] and (2) [review and determinations]. An appeals process must be included as a new Section 202 (f) (3) to establish this authority within NIDRR and as a subsection Section 301 (b) (1) that would spell out the role of peer review in RSA awards making for training and demonstration grants and a third party appeals process regarding awards.

THE REHABILITATION ACT . . . REAUTHORIZATION

TITLE V

Title V of the Rehab Act provides several programs and benefits ensuring certain rights for individuals with disabilities and providing access to advocacy and legal representation.

Sec. 501 establishes an Interagency Committee on Employees who are individuals with disabilities. Sec. 502 establishes the Architectural and Transportation Barriers Compliance Board (referred to as the Access Board). The Board is an independent federal agency comprised of 25 members (13 of who are appointed by the President with the remainder appointed by the heads of various federal agencies). The Board is responsible for assuring compliance with federal statutes requiring accessibility for person with disabilities. Sec. 503 establishes requirements for affirmative action in employing and advancing in employment individuals with disabilities who are working under contracts in excess of \$10,000. Sec. 504 establishes nondiscrimination requirements for qualified individuals with disabilities working under federal grants and programs. Sec. 505 deals with remedies and attorneys' fees for individuals with disabilities who have been discriminated against while working under federal grants and programs. Sec. 507 establishes an Interagency Disability Coordinating Council. Sec. 508 establishes accessibility guidelines for federal agencies that are purchasing electronic and information technology. Sec. 509 establishes the Protection and Advocacy of Individual Rights (PAIR) Program. The PAIR Program provides grants to state to protect and advocate the rights of individuals with disabilities who are ineligible to qualify for other P&A Programs.

For years, the programs and benefits in Title V have been viewed as sacred cows. Only a few changes have been made during the last few reauthorizations of the Rehab Act. While NRA generally agrees with this hands-off approach to legislation that protections individuals with disabilities from discrimination and inhumane treatment, NRA feels it is appropriate at this time to make a few recommendations that would clean up and update language in this title and that would extend some of the provisions to incorporate new trends such as the movement from institutional settings to community settings result from the Supreme Court's Olmstead decision and the recent involvement of the Social Security Administration in employment programs for individuals with disabilities. Finally, NRA proposes that consideration be given to extending the provisions in Sec. 508 to State Agencies that are purchasing electronic and information technology. Hence, the NRA provides the following recommendations for consideration as the Rehabilitation Act is reauthorized.

Recommendations:

V(a) Outdated references and language need to be updated.

- The reference to the Senate Committee on Labor and Human Resources in Sec. 502(g) (2) needs to be changed to "the Committee on Health, Education, Labor and Pensions of the Senate."

- The last sentence in Sec. 503(a) should be deleted since regulations have already been promulgated.
- The reference in Sec. 504(b)(2)(B) to a local education agency (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (ESEA)) may need to be updated based on several subsequent reauthorizations of ESEA.
- With the recent implementation of the Ticket to Work Program, the Social Security Administration (SSA) is becoming more and more involved in employment for individuals with disabilities. NRA believes a specific reference to SSA should be included with the references to numerous other federal agencies currently listed in two sections of Title V. Sec. 501(a) establishes an Interagency Committee on Employees Who Are Individuals with Disabilities. SSA should be specifically listed in this section. A reference to SSA should also be included in the list of federal agencies found in Sec. 502(a)(1)(B). This section establishes the Architectural and Transportation Barriers Compliance Board, commonly referred to as the Access Board. If a new office of Homeland Security is established, consideration might be given to adding a reference to it in this section. A reference to SSA should be included in Sec. 507(a) that establishes an Interagency Disability Coordinating Council.
- The reference to the President's Committee on Employment of People With Disabilities (PCEPD) in the next to last sentence of this section needs to be changed since PCEPD has now been subsumed into the Department of Labor's new Office on Disability Employment Policy. Two additional references to PCEPD are found in Secs. 501(f)(1) & (2).
- Amend Sec. 502(a)(2)(A) by deleting the reference to "except as proved in clause (ii) and by deleting subsection (ii) completely. Subsection (ii) sets up dates to establish staggered appointments for Access Board members. Hence, Section 502(a)(2)(A) would be rewritten to drop the (i) and read as follows:

"The term of office of each appointed member of the Access Board shall be 4 years. Each year, the terms of office of at least three appointed members of the Access Board shall expire."

V(b) Certain dates need to be updated or dropped completely

- The first sentence in Sec. 501(d) needs to be rewritten to drop the reference to June 30, 1974, and simply make the report to appropriate Congressional committees an annual report. This annual report provides information on the practices of and achievements in hiring, placement, and advancement of individuals with disabilities by each department, agency, and instrumentality and the effectiveness of the affirmative action programs required by subsection 501(b). NRA recommends that Congress determine whether this annual report is being made and whether anyone is doing anything with the information contained in it.

- The reference to fiscal year 1999 through 2003 in Sec.503(i) needs to be changed based on the length of time established of this reauthorization.

V(c) Add provisions to incorporate language regarding national trends.

- Amend Sec. 502(b)(4) to require the Access Board to promote universal design in the development of new products and devices. The amended section might read as follows:

"(4) promote accessibility throughout all segments of society and universal design development of new products and devices, including electronic technology."

- In keeping with the Supreme Court's Olmstead decision, add a new subsection (C) to Sec. 502(c)(1), which deals with other functions of the Access Board. The new section would read as follows:

"(C) consider the needs of individuals with disabilities who are moving from institutional settings to community settings."

- In Sec. 507(b), which establishes the duties of the Interagency Disability Coordinating Council, include a reference to "employment" in subsection (b)(3). The subsection would read as follows:

"(3) carry out such studies and other activities, subject to the availability of resources, with advice from the National Council on Disability, in order to identify methods for overcoming barriers to independence, productivity, employment and integration into society."

V(d) Consider revising Sec. 508 to apply to the States

- NRA suggests that consideration be given to extending the requirements regarding electronic and information technology to State departments and agencies. With almost every state facing deficits, many state departments and agencies, many states will be looking at ways to streamline services and increase the efficiency of existing departments and agencies. One solution that will be considered in many states is increased use of more modern technology. While a movement to more modern technology may require an initial investment that is relatively high, the efficiencies gained and the cost savings over time are well worth the investment. If the United States is serious about accommodating the needs of individuals with disabilities in the workforce, States should be required to meet the requirements of Sec. 508 now so that they will purchase equipment and technology that is universally designed to meet the needs of diverse populations, including individuals with disabilities. In the end this will be more cost effective, since going back and retrofitting equipment and technology to accommodate the needs of individuals with disabilities is almost always

significantly more expensive than taking such accommodation into consideration up front.

- If a decision is made to extend the requirements of Sec. 508 to the states, references to "state" would have to be incorporated throughout the section, e.g., every time there is a reference to "each Federal department or agency." There are also references in Sec. 508 to specific dates that certain things should have been completed. Congress needs to determine if these things have been done and, if so, remove these dates, and, if not, incorporate new dates to establish new timelines.
- NRA recommends that Sec. 508(a)(2)(A) be amended to include two new references: one to the Secretary of Labor and one to the Commissioner of the Social Security Administration.
- NRA recommends that Sec. 508(a)(2)(B) be amended to require an annual review and, as appropriate, amendment of the standards applicable to technological advances and changes in electronic information technology. Current law requires a periodic review. An annual review would be more in line with the speed with which technology advances. Likewise, Sec. 508(d)(2) calls for biennial reports, starting 3 years after the enactment of the Rehabilitation Act Amendments of 1998. This section should be updated by dropping the reference to 3 years after enactment and simply call for biennial reports. Again, NRA suggested that Congress first make sure these reports are happening and that someone is using the information.

V(e) Amend certain provisions in Sec. 509.

- Sec. 509 establishes the Protection and Advocacy of Individual Rights (PAIR) Program. Subsection 509(b) should be deleted completely since it refers to appropriations less than \$5.5 million and PAIR appropriation was almost three times that amount in FY 2002. Subsection (c) would need to be re-designated as (b) and named "Appropriations" rather than Appropriations of \$5.5 million or more.
- The reference to the Committee on Labor and Human Resources in Sec. 509(k) should be changed to the Committee on Health, Education, Labor and Pensions, and the authorization years in section 509(I) will need to be updated.

THE REHABILITATION ACT . . . REAUTHORIZATION

TITLE VI

Issue VI (a): Integration of Title VI into Title I

The administration has suggested that services funded under Title VI “overlap” with the State VR program and could logically be moved under the Title I umbrella. This assumption fails to recognize a number of key issues.

- Many states are struggling to meet current match requirements and would be unlikely to have funds available to meet the Title I requirement.
- Combining the titles would not protect the emphasis on these important programs. There would be no assurance of maintenance of effort.
- Compared to Title I, the methodologies of Supported Employment programs (Title VI, Part B) are dedicated to serving only individuals with the most significant disabilities. Title VI provides protection of these programs in states that are not in an order of selection.
- Projects with Industry (Title VI, Part A) operates successfully on a competitive grant basis with an 80% federal – 20% state or private match.
- Supported Employment has successfully assisted people who were considered “unemployable” to achieve employment. However, only about 20% of people who could benefit from this service have access to it.
- Although placement in segregated settings is no longer an acceptable employment outcome within the State VR system, there has not been a significant decline in enrollment in segregated work or day activity centers. Supported employment services offer a means of providing a viable alternative to these programs.

Applicable Section of the Rehab Act:

Recommendation:

VI(a)(1) Do not merge Title VI (Supported Employment, Projects with Industry) with Title I.

Issue VI (b): Projects with Industry (PWI)

Although disability related eligibility criteria for PWI services is the same as State VR, there is no requirement for coordination with State VR. Additionally, there is no requirement for coordination with Workforce Development Boards.

Applicable Section of the Rehab Act: Title VI, Part A, Section 611

Recommendation:

VI(b)(1) Continuation of PWI authority and funding is recommended, but Congress should consider language in Part A that would require closer coordination between PWI and Workforce Development Boards. Parallel language requiring coordination with PWI projects should be added to the Workforce Investment Act.

Issue VI (c): Transition from School to Adult Life

A seamless transition between the public education system and the highly specialized job development, counseling, training, employment placement and support services of the public rehabilitation system is critical to the success of young adults transitioning from special education into adult life.

Today, transition services from school to post school services are differentially available among the various states. Limited financial resources, lack of qualified personnel and philosophical differences account for much of the variance.

The President's most recent budget recommended consolidation of Title VI of the Rehab Act into Title I. Insufficient resources already characterize the Title I program. Assigning additional responsibilities without additional funding will not achieve fuller implementation of the transition responsibility assigned to the public rehabilitation program.

Applicable Section of the Rehab Act: Title VI, Part C (proposed)

Recommendations:

VI(c)(1) NRA supports CSAVR's recommendation for dedicated funding streams for transition in the Rehabilitation Act and in the Individuals with Disabilities Education Act (IDEA), with the following caveats:

- NRA will not support a "Rob-Peter-To-Pay-Paul" policy that would pit the creation of these two new funding streams against the consolidation of any existing VR programs. This includes, but is not limited to, those related to Supported Employment, Projects with Industry, Migrants and Recreation.
- NRA is concerned that the Congress may authorize the new funding streams for transition in both statutes but not appropriate the funding.
- Another legislative scenario about which NRA is concerned is that the Congress may authorize, and ultimately appropriate only the funding stream in the IDEA. This would have the unintended consequence of further exacerbating the woefully underfunded public rehabilitation program.

VI(c)(2) To facilitate transition, NRA supports continued collaboration and increased dialogue among and outreach initiatives to, parents, students, post-secondary education staff and other partners involved in the transition of eligible special education students entering the public rehabilitation program.

THE REHABILITATION ACT . . . REAUTHORIZATION

TITLE VII

Issue VII (a): Demand for independent living services by older people with disabilities

In eight years, the first of the Baby Boomers will be 65 years old. Every day there after, another 10,000 will turn 65 until all 80 million reach old age. As they experience age-related disabilities, these individuals will require programs and services to enable them to live independently.

Applicable Section of the Rehab Act: Chapter 1, Section 704; Chapter 2, Section 751, 752

Recommendations:

VII(a)(1) Chapter II's scope and funding must be expanded so that it may serve all older individuals with disabilities. NRA recommends amending the chapter title phrase, "...who are blind," to include, "or otherwise eligible."

VII(a)(2) Section 751 needs to be amended by inserting the words, "...or has another significant disability which..."

VII(a)(3) Section 752 needs amendatory language at 752 (d) (1) by inserting the term "eligible" before the word "older" and striking the phrase, " who are who blind."

VII(a)(4) Section 752(e) will need conforming amendments to expand the scope of services to individuals who are not blind. At the same time, CILS must increase their capacity to serve older people, many of which will have recently acquired aging-related disabilities. NIDRR and RSA should begin immediately to fund demonstrations on providing independent living services to eligible aging individuals with disabilities which will enable them to live in their own homes, while participating fully in community life, as well as exercising their options to work full or part time.

Issue VII (b):

In Chapter 2, in preparing funding applications, DSUs are required to assure that their applications for funding are consistent with the state plan for independent living (SPIL); however, there is no requirement for participation or involvement of the SILC.

Applicable Section of the Rehab Act: Section 752

Recommendation:

VII(b)(1) Require that SILCS certify that Chapter 2 applications are consistent with the SPIL.

Issue VII (c): Insufficient IL services to individuals who are members of the Indian Nations, Alaskan Native Villages, and Pacific Islanders

There are only two CILs currently funded to serve American Indians—one on the Navajo reservation and one in Buffalo, New York.

Applicable Section of the Rehab Act:

Recommendation:

VII(c)(1) Title VII should be amended to include set-aside funding (preferred) or a funding priority for independent living services for members of the Indian Nations, Alaskan Native Villages and Pacific Islanders.

Issue VII (d): Core Services

The core IL services should be revised to reflect actual practices and most pressing needs. The original core services were four—information and referral, peer counseling, independent living skills training, and systems and individual advocacy.

Applicable Section of the Rehab Act: Section 7 (17) Independent Living Core Services

Recommendation:

VII(d)(1) The list of core independent living services should be revised to the following: peer counseling, information and referral, independent living skills instruction, self advocacy, systems advocacy, assistive technology, deinstitutionalization and prevention of institutionalization.

Issue VII (e): Substantive delays in filling SILC positions

Currently, the state governor (or ‘designated appointing authority’) is responsible for appointing individuals to replace SILC members whose terms have expired or who have resigned. Understandably, more critical state matters frequently take precedence over SILC appointments and delays in making appointments are not infrequent. Some SILCS have reported very long waits before members were replaced.

Applicable Section of the Rehab Act: Section 705

Recommendation:

VII(e)(1) To streamline the appointment process, assign to the SILC responsibility for developing and providing a list of nominees to the Governor or appointing authority. If the Governor or appointing authority does not confirm or reject names within 60 days, the appointment becomes automatically confirmed.

Issue VII (f): Dispute resolution

Title VII has no method for centers to appeal their SPILs, if they believe that the plan has not been developed according to Section 704 requirements.

Centers are at the core of advocacy in a state, and there is no protection against SILCS and DSUs from joining to seek retribution due to a center's advocacy. Centers have their own boards of directors and are supposed to be community-based. As such, they must be responsive to the needs of their local community. SILCS, on the other hand, are statewide and should not be able to make decisions that override the needs of the local jurisdictions.

Applicable Section of the Rehab Act: Section 706

Recommendation:

VII(f)(1) Incorporate into Title VII a procedure for resolving all disputes to include not only disputes CIL's may have with the SILC, DSU, or RSA but disputes that might arise between the SILC and DSU or RSA.

Issue VII (g): Funding

Title VII was originally authorized for funding at hundreds of millions of dollars. Twenty years later, appropriations have not matched the promise contained in the authorizing language. Unmet needs have been established. Program efficacy has been demonstrated. Programmatic scope is being increased. Significant appropriation increases are warranted.

There are too few centers to serve the nation's 54 million individuals with disabilities. According to the Rural Institute on Disabilities, each CIL currently covers approximately 5.7 counties. Forty percent (40%) or 1,230 of our nation's counties receive no service whatsoever from a center, and for many others, the coverage is only superficial. Many existing centers are woefully underfunded.

Applicable Section of the Rehab Act: Section 711 and 721

Recommendation:

VII(g)(1) Increase funding for Title VII to an amount of not less than 10% of Title I.