99TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT
99-116

AMENDING THE REVISED ORGANIC ACT OF THE VIRGIN ISLANDS, TO AMEND THE COVENANT TO ESTABLISH A COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, TO PROVIDE FOR THE GOVERNANCE OF THE INSULAR AREAS OF THE UNITED STATES, AND FOR OTHER PURPOSES

MAY 15, 1985.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. UDALL, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 2478]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 2478) to amend the Revised Organic Act of the Virgin Islands, to amend the Covenant to Establish a Commonwealth of the Northern Mariana Islands, to provide for the governance of the insular areas of the United States, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 1, line 3, strike all after the enacting clause and insert the following in lieu thereof:

SECTION 1. (a) Section 12 of the Revised Organic Act of the Virgin Islands (82 Stat. 838), as amended, is revised to read as follows:

"SEC. 12 (a) The people of the Virgin Islands shall have the rights of initiative, referendum, and recall to be exercised as follows:

"(1) Initiatives may be proposed to enact, amend, or repeal laws of the Virgin Islands, except public exigency laws or laws providing for a reduction of taxes without an equivalent reduction of expenditures or appropriations for operating expenses or revenues required to meet the obligations of the Virgin Islands.

"(2) An initiative shall be proposed by a petition that sets forth the full text of the proposal and is certified to have been signed by at least 10 percent of the qualified voters of each legislative district or by 41 percent of the qualified voters of the Virgin Islands.

"(3) An initiative petition shall be filed with the legislature. If adopted by the legislature within 30 days of the filing of the petition, the proposal contained in the petition shall take effect in accordance with its terms. If the legislature fails to act within 30 days, the proposal shall be submitted to the voters in a referendum at a special election to be held 60 days after the legislature fails to act unless the initia-

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tive by its terms calls for the proposal to be submitted to the people at the next general election.

"(4) An initiative shall take effect upon the affirmative vote of a majority of the qualified voters of the Virgin Islands. An initiative may not be vetoed by the Governor, and, when adopted by the people, may not be amended or repealed by the legislature in office when the petition was filed unless the initiative permits subsequent amendment or repeal without their approval.

"(5) A copy of the initiative petition shall be submitted to the Attorney General of the Virgin Islands who shall prepare a title and summary of the measure.

"(6) The legislature may provide the manner in which petition shall be circulated, filed, certified, and the initiative and the title and summary shall be submitted to the voters.

"(7) No initiative may be proposed on more than one subject.

"(b)(1) Elected public officials of the Virgin Islands may be recalled by the qualified voters of the Virgin Islands. A recall petition shall identify the official to be recalled by name and office and be signed by at least 30 percent of the persons qualified to vote for that office. The petition shall state the reasons for recall.

"(2) A special recall election shall be held within 60 days of the filing of the recall petition. An official shall be recalled upon the affirmative vote of two-thirds of those voting on the question.

"(3) A recall petition may not be filed during the first year of the first term of office of an elected official and not less than three months before a general election nor more than once a year except for cause."

SEC. 2. Appropriations through fiscal year 1986, made under authorization of Subsection (c) of Section 702 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, approved by Public Law 94-241, may be expended for capital improvement projects which facilitate the economic development of the commonwealth.

SEC. 3. The first sentence of Section 4(a) of the Act of November 20, 1963 (77 Stat. 339) is amended to read as follows: "(a) Except as otherwise provided by law, the governments of Virgin Islands, Guam, and American Samoa, as the case may be, shall have concurrent civil and criminal jurisdiction with the United States over parties found, acts performed, and offenses committed on property owned, reserved or controlled by the United States in the Virgin Islands, Guam, and America Samoa, respectively."

SEC. 4. Effective October 1, 1985, there are authorized to be appropriated $1,200,000 to the Secretary of Interior for grants to the College of the Virgin Islands for projects related to the Eastern Caribbean Center, to remain available until expended.

SEC. 5. The Act of October 2, 1984 (98 Stat. 2439, 2445) is amended by deleting subparagraphs 101(a)(3)(D) and 112(f)(1)(B) and renumbering accordingly.

PURPOSE

H.R. 2478 is an omnibus bill concerning the insular areas of the United States. It is designed to rationalize the application of various federal laws to the insular areas and provide them with necessary assistance so that their economic, political, and social development is facilitated.

The various sections of the bill, as reported by the Committee on Interior and Insular Affairs, would grant the Virgin Islands the powers of initiative, referendum, and recall; authorize the Northern Mariana Islands to expend appropriations for its economic development loan fund for economic capital improvements; grant the Virgin Islands, Guam, and American Samoa full concurrent jurisdiction over federal lands; authorize assistance to develop the Eastern Caribbean Center proposed in the President's Caribbean Basin Initiative; and authorize vocational education program assistance for American Samoa, Guam, the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands.

BACKGROUND AND NEED

Initiative, referendum, and recall

The U.S. Virgin Islands are governed pursuant to the Revised Organic Act of the Virgin Islands, as amended. Section 12 of the law provides for the recall of the territory's governor in a referendum.

There are no provisions in the 1954 law for recall of other elected officials. Nor are there provisions for the voters to propose, amend, enact, or repeal local laws through initiative and referendum.

Granting this authority requires amendment of the territory's organic act. Granting it would also continue the progressive grants of increasing measures of self-government to the Virgin Islands.

The language of the section is similar to that which was included in H.R. 101 for which H.R. 2478 is a substitute. This section is also similar to Article XII of the constitution drafted by a Virgin Islands convention pursuant to P.L. 94–584 and which was approved by P.L. 97–21.

The constitution did not take effect because it failed to be approved in a territorial referendum. However, Article XII was not an issue in the debate regarding the constitution whereas other provisions were controversial and some had been opposed by the President.

The people of Guam, the nation's only other unincorporated, federally-organized territory, were granted the powers of initiative, referendum, and recall in P.L. 97–357.

Northern Mariana Islands

In its report on the fiscal year 1986 budget, the Committee recommended that the $3,466,000 that the President had requested for a grant to the Northern Mariana Islands economic development loan fund be spent instead for improvements to the territory's water system.

$15 million was authorized for these improvements in P.L. 98–454. The Committee is disappointed that the President requested only $2,850,000 for these projects in his 1986 budget. They are essential for public health reasons, as well as for economic development.

Previously appropriated grants to the loan fund have left it with a balance approaching $12 million. Loan delinquency rates are high and Commonwealth officials readily project that there will not be enough qualified applicants to draw down the balance in the forseeable future.

The Commonwealth has enacted a law to establish a new development bank, which would replace the loan fund and perform other fiscal functions. While it would require some of the loan fund's balance, it is not anticipated to need the fiscal year 1986 request for the loan fund.

Executive and legislative officials of the Commonwealth have agreed that the flexibility to use appropriations for the economic development loan fund for capital improvements projects essential to economic development, such as the water system improvements, would be desirable.

Concurrent jurisdiction over Federal lands

P.L. 88-183 granted the governments of Guam, the Virgin Islands, and American Samoa concurrent jurisdiction with the federal government over "parties found, acts performed, and offenses committed" on federal land in those territories.

While the Solicitor's Office of the Department of the Interior has interpreted the 1963 law to be a general grant of concurrent jurisdiction, a federal court ruling in the Virgin Islands last year, cast doubt upon the extent of this grant of authority, however. It ruled that the territory could not enforce a local public access statute on a federally-owned Water Island which is leased to a private party.

This section would resolve the ambiguity which has been created by amending P.L. 88-183 to clearly grant full concurrent jurisdiction over all federally-controlled property in the three territories to the extent that local laws do not conflict with federal laws. The United States would thereby relinquish any exclusive legislative jurisdiction it would have regarding the lands, except to the extent of the specific qualification provided for in the original law or provided for by other applicable federal laws.

Eastern Caribbean Center

In its report on the fiscal year 1986 budget, the Committee recommended that $1,200,000 be spent to complete the first phase of the development of the Eastern Caribbean Center at the College of the Virgin Islands. Development of and support for the Center was proposed in the President's Caribbean Basin Initiative.

As a link between the United States and Eastern Caribbean mini-states, the Center is to serve as a vehicle for the study, development, sharing and promotion of resources. It would provide cooperative programs in the areas of agriculture, natural resources, social and human resources, the environment, and communications.

The Center was planned with funds authorized by P.L. 97-357 and the Committee also supported funding the Center's first phase of development in its fiscal year 1985 budget report. Funds were appropriated in fiscal year 1985 to begin implementation of the Center concept.

Vocational education

The insular areas generally have high rates of unemployment and underdeveloped private sectors. The federal domestic program budget reductions of recent years have exacerbated this situation by adversely affecting the territories and commonwealths more severely than the states.

Legislation was enacted last year which authorizes vocational education assistance for the states and insular areas in fiscal years 1986 through 1989. P.L. 98-524 provided that program assistance to the states would not be less than it was in fiscal year 1984 and authorized assistance to state vocational education councils, among other vocational education assistance. These provisions did not apply to the insular areas, however.

The President subsequently proposed authorizing program grants for the insular areas for fiscal years 1986 through 1989 of not less than the amount granted for fiscal year 1984, similar to that which was authorized for the states. Authorization of grants to insular vocational education councils, similar to the 1985 authorization of grants to state vocational education councils, is also needed.

SECTION-BY-SECTION ANALYSIS

Section 1 authorizes the people of the U.S. Virgin Islands to exercise the powers of initiative, referendum, and recall. It would replace Section 12 of the Revised Organic Act of the Virgin Islands which provides for removal of the territory's governor in a referendum.

Under the legislation, an initiative to enact, amend, or repeal a local law would be proposed through a petition signed by at least 10 percent of the voters of each of the territory's two legislative districts or 41 percent of the electorate as a whole. If not approved by the legislature within 30 days, a referendum would be held on the initiative at the next territorial election. Initiatives would be limited to one subject and could not be used to amend or repeal public exigency laws or those providing for taxes or spending for operating expenses or to meet obligations of the government.

A recall of any elected official in the territory would be proposed through a petition signed by at least 30 percent of the persons qualified to vote for the office. H.R. 2478 requires recall elections to be held within 60 days of filing. A two-thirds vote is required for a recall.

Section 2 authorizes annual appropriations through fiscal year 1986 for the Northern Mariana Islands economic development loan fund to be expended for capital improvement projects in order to facilitate economic development.

Section 3 grants the Virgin Islands, Guam, and American Samoa full civil and criminal concurrent jurisdiction with the United States over federal lands in these territories to the extent that local laws do not conflict with federal laws. The intent is to ensure that local jurisdiction will apply with regard to use of federal lands, as well as activities of persons on them.

Section 4 authorizes the appropriation of $1.2 million for the Eastern Caribbean Center at the College of the Virgin Islands.

Section 5 authorizes the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands to receive grants for vocational education programs in fiscal years 1986 through 1989 at a level at least equal to the amounts not less than the grants they received in fiscal year 1984 and would authorize grants to insular vocational education councils.

OVERSIGHT STATEMENT

H.R. 2478, as amended, is substantially a product of the oversight activities of the Committees on Interior and Insular Affairs.

While Section 1 was considered pursuant to the introduction of H.R. 101 on the first day of the 99th Congress, the need for Sections 2 through 5 became apparent at oversight hearings conducted by the Committee during this session. As these provisions are implemented, the Committee will carefully review the programs and will continue to maintain its oversight responsibilities over matters involving the insular areas of the United States.

COST, INFLATIONARY IMPACT, AND BUDGET ACT COMPLIANCE

The Committee estimates that there will be no adverse inflationary impact nor any consequence beyond that anticipated by existing law and the Committee's report on the fiscal year 1986 budget. This legislation permits ongoing programs to be continued and, in some, improves the opportunity to maximize the beneficial use of the limited funds available.

Section 2 should result in a more worthwhile use of appropriated assistance to the Northern Mariana Islands which is not being well-used at present and make funds available earlier—and at less of a cost—to meet capital improvement needs recognized by Congress and the President. The infrastructure that it would facilitate would promote private sector activity in the commonwealth, eventually diminishing the need for federal assistance.

The analysis of the Congressional Budget office, was not received by the Committee prior to filing this report.

LEGISLATIVE HISTORY AND COMMITTEE RECOMMENDATION

H.R. 2478 was introduced by Delegate Ron de Lugo on May 14, 1985 and was referred to the Committee on Interior and Insular Affairs. It follows the introduction of H.R. 101 which was introduced by Delegate de Lugo on January 3.

A legislative hearing was held by the full Committee on May 13 which covered matters included in H.R. 2478. In addition, various subjects included in the measure was discussed in full Committee oversight hearings on February 15 and 22, 1985.

On May 15, the bill, as amended, was ordered favorably reported to the House of Representatives by a voice vote.

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99TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPT. 99-116
Part 2

AMENDING THE REVISED ORGANIC ACT OF THE VIRGIN ISLANDS

MAY 21, 1985.—Ordered to be printed

Mr. UDALL, from the Committee on Interior and Insular Affairs, submitted the following

SUPPLEMENTAL REPORT

[To accompany H.R. 2478]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 2478) to amend the revised Organic Act of the Virgin Islands, to amend the Covenant to Establish a Commonwealth of the Northern Mariana Islands, to provide for the governance of the insular areas of the United States, and for other purposes.

BUDGET ACT COMPLIANCE

The analysis of H.R. 2478 by the Congressional Budget Office follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 15, 1985.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 2478, a bill to amend the Revised Organic Act of the Virgin Islands, to amend the Covenant to Establish a Commonwealth of the Northern Mariana Islands, to provide for the governance of the insular areas of the United States, and for other purposes, as ordered reported by the House Committee on Interior and Insular Affairs, May 15, 1985.

The bill authorizes the appropriation of $1.2 million in fiscal year 1986 to the Secretary of the Interior for grants to the College of the Virgin Islands. Assuming the amount authorized is appropriated, we estimate that federal government outlays will be about

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$960,000 in fiscal year 1986 and $240,000 in fiscal year 1987. In addition, the bill would allow the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands to be included in the formula for the sharing of vocational education assistance, but does not authorize additional funds. Other provisions of the bill would have no cost impact.

The bill also authorizes the people of the United States Virgin Islands to exercise the power of initiative, referendum, and recall. These activities may result in some costs to the government of the Virgin Islands, but there is no way to predict the number of such votes that would occur and the resulting costs. Enactment of this legislation will not affect the budgets of other state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

JAMES BLUM
(For Rudolph G. Penner).

CHANGES IN EXISTING LAW

In compliance with clause 3 of Rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is porposed is shown in roman):

REVISED ORGANIC ACT OF THE VIRGIN ISLANDS

(68 Stat. 497, as amended, 48 U.S.C. 1593)

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[SEC. 12. Any Governor of the Virgin Islands may be removed from office by a referendum election in which at least two-thirds of the number of persons voting for Governor in the last preceding general election at which a Governor was elected vote in favor of recall and in which those so voting constitute a majority of all those participating in the referendum election. The referendum election shall be initiated by the legislature of the Virgin Islands following (a) a two-thirds vote of the members of the legislature in favor of a referendum, or (b) a petition for such a referendum to the legislature by registered voters equal in number to at least 50 per centum of the whole number of votes cast for Governor at the last general election at which a Governor was elected preceding the filing of the petition.]

SEC. 12 (a) The people of the Virgin Islands shall have the rights of initiative, referendum, and recall to be exercised as follows:

(1) Initiatives may be proposed to enact, amend, or repeal laws of the Virgin Islands, except public exigency laws or laws providing for a reduction of taxes without an equivalent reduction of expenditures or appropriations for operating expenses or revenues required to meet the obligations of the Virgin Islands.

(2) An initiative shall be proposed by a petition that sets forth the full text of the proposal and is certified to have been signed by at

least 10 percent of the qualified voters of each legislative district or by 41 percent of the qualified voters of the Virgin Islands.

(3) An initiative petition shall be filed with the legislature. If adopted by the legislature within 30 days of the filing of the petition, the proposal contained in the petition shall take effect in accordance with its terms. If the legislature fails to act within 30 days, the proposal shall be submitted to the voters in a referendum at a special election to be held 60 days after the legislature fails to act unless the initiative by its terms calls for the proposal to be submitted to the people at the next general election.

(4) An initiative shall take effect upon the affirmative vote of a majority of the qualified voters of the Virgin Islands. An initiative may not be vetoed by the Governor, and, when adopted by the people, may not be amended or repealed by the legislature in office when the petition was filed unless the initiative permits subsequent amendment or repeal without their approval.

(5) A copy of the intiative petition shall be submitted to the Attorney General of the Virgin Islands who shall prepare a title and summary of the measure.

(6) The legislature may provide the manner in which petition shall be circulated, filed, certified, and the initiative and the title and summary shall be submitted to the voters.

(7) No initiative may be proposed on more than one subject.

(b)(1) Elected public officials of the Virgin Islands may be recalled by the qualified voters of the Virgin Islands. A recall petition shall identify the official to be recalled by name and office and be signed by at least 30 percent of the persons qualified to vote for that office. The petition shall state the reasons for recall.

(2) A special recall election shall be held within 60 days of the filing of the recall petition. An official shall be recalled upon the affirmative vote of two-thirds of those voting on the question.

(3) A recall petition may not be filed during the first year of the first term of office of an elected official and not less than three months before a general election nor more than once a year except for cause.

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ACT OF NOVEMBER 20, 1963

(77 Stat. 338, 339; as amended 48 U.S.C. 1704)

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SEC. 4. ⟦(a) Except as otherwise provided in this section, the governments of Guam, the Virgin Islands, and American Samoa, as the case may be, shall have concurrent jurisdiction with the United States over parties found, acts performed, and offenses committed on property owned, reserved, or controlled by the United States in Guam, the Virgin Islands, and American Samoa. A judgment of conviction or acquittal on the merits under the laws of Guam, the Virgin Islands, or American Samoa shall be a bar to any prosecution under the criminal laws of the United States for the same act or acts, and a judgment of conviction or acquittal on the merits under the laws of the United States shall be a bar to any prosecution under the laws of Guam, the Virgin Islands, or American Samoa for the same act or acts.]

(a) Except as otherwise provided by law, the governments of Virgin Islands, Guam, and American Samoa, as the case may be, shall have concurrent civil and criminal jurisdiction with the United States over parties found, acts performed, and offenses committed on property owned, reserved or controlled by the United States in the Virgin Islands, Guam, and American Samoa, respectively.

(b) Notwithstanding the provisions of subsection (a) of this section, the President may from time to time exclude from the concurrent jurisdiction of the government of Guam persons found, acts performed, and offenses committed on the property of the United States which is under the control of the Secretary of Defense to such extent and in such circumstances as he finds required in the interest of the national defense.

CARL D. PERKINS VOCATIONAL EDUCATION ACT

(98 Stat. 2435)

SEC. 101. (a)(1) From the sums appropriated pursuant to section 3(a), the Secretary shall reserve—

(A) 2 percent for the activities described in title IV (other than part E); and

(B) 1½ percent for the purpose of carrying out section 103 of which (i) 1¼ percent shall be for the purposes of section 103(b) and (ii) ¼ percent shall be for the purposes of section 103(c).

(2) Subject to the provisions of paragraph (3), from the remainder of the sums appropriated pursuant to sections 3(a) and 3(b), the Secretary shall allot to each State for each fiscal year—

(A) an amount which bears the same ratio to 50 percent of the sums being allotted as the product of the population aged fifteen to nineteen inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(B) an amount which bears the same ratio to 20 percent of the sums being allotted as the product of the population aged twenty to twenty-four, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States;

(C) an amount which bears the same ratio to 15 percent of the sums being allotted as the product of the population aged twenty-five to sixty-five, inclusive, in the State in the fiscal year preceding the fiscal year for which the determination is made and the State's allotment ratio bears to the sum of the corresponding products for all the States; and

(D) an amount which bears the same ratio to 15 percent of the sums being allotted as the amounts allotted to the State under clauses (A), (B) and (C) for such years bears to the sum of the amounts allotted to all the States under clauses (A), (B), and (C) for such year.

(3)(A) No State shall receive in any fiscal year less than the total amount of payments made to the State under allotments determined under the Vocational Education Act of 1963 for fiscal year 1984. Any amounts necessary for increasing the sum of the allotments of certain States to comply with the preceding sentence shall be obtained by ratably reducing the sums of the allotments of the other States, but no such sum shall be thereby reduced to an amount which is less than the total amount of payments made to the State under allotments determined under the Act of fiscal year 1984.

(B) In any fiscal year in which the amounts appropriated and available for allotments under this section exceeds the amounts so available for fiscal year 1984, and subject to the application of subparagraph (A), no State shall receive less than one-half of one percent of the amount available under this subsection for each such fiscal year except that in the case of the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands the minimum allotment shall be $200,000.

(C) No State shall, by reason of the application of the provisions of subparagraph (B) of this paragraph, be allotted more than 150 percent of the allotment of that State in the fiscal year preceding the fiscal year for which the determination is made.

[(D) For the purpose of this paragraph, the term 'State' does not include the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.]

(b) If the Secretary determines that any amount of any State's allotment under subsection (a) for any fiscal year will not be required for such fiscal year for carrying out the program for which such amount has been allotted, the Secretary shall make such amount available for reallotment. Any such reallotment among other States shall occur on such dates during the same year as the Secretary shall fix, and shall be made on the basis of criteria established by regulation. No funds may be reallotted for any use other than the use for which they were appropriated. Any amount reallotted to a State under this subsection for any fiscal year shall remain available for obligation during the succeeding fiscal year and shall be deemed to be part of its allotment for the year in which it is obligated.

(c)(1) The allotment ratio for any State shall be 1.00 less the product of—

(A) 0.50; and

(B) the quotient obtained by dividing the per capita income for the State by the per capita income for all the States (exclusive of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands), except that (i) the allotment ratio in no case shall be more than 0.60 or less than 0.40 and (ii) the allotment ratio for Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall be 0.60.

(2) The allotment ratios shall be promulgated by the Secretary for each fiscal year between October 1 and December 31 of the fiscal year preceding the fiscal year for which the determination is

made. Allotment ratios shall be computed on the basis of the average of the appropriate per capita incomes for the three most recent consecutive fiscal years for which satisfactory data are available.

(3) The term 'per capita income' means, with respect to a fiscal year, the total personal income in the calendar year ending in such year, divided by the population of the area concerned in such year.

(4) For the purposes of this section, population shall be determined by the Secretary on the basis of the latest estimates available to the Department.

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SEC. 112. (a) Each State which desires to participate in vocational education programs authorized by this Act for any fiscal year shall establish a State council, which shall be appointed by the Governor or, in the case of States in which the members of the State board of education are elected (including election by the State legislature), by such board. Each State council shall be composed of 13 individuals, and shall be broadly representative of citizens and groups within the State having an interest in vocational education. Each State council shall consist of—

(1) seven individuals who are representative of the private sector in the State who shall constitute a majority of the membership—

(A) five of whom shall be representative of business, industry, and agriculture including—

(i) one member who is representative of small business concerns; and

(ii) one member who is a private sector member of the State job training coordinating council (established pursuant to section 122 of the Job Training Partnership Act), and

(B) two of whom shall be representatives of labor organizations;

(2) six individuals who are representative of secondary and postsecondary vocational institutions (equitably distributed among such institutions), career guidance and counseling organizations within the State, individuals who have special knowledge and qualifications with respect to the special educational and career development needs of special populations (including women, the disadvantaged, the handicapped, individuals with limited English proficiency, and minorities) and of whom one member shall be representative of special education.

In selecting individuals under subsection (a) to serve on the State council, due consideration shall be given to the appointment of individuals who serve on a private industry council under the Job Training Partnership Act, or on State councils established under other related Federal Acts.

(b) The State shall certify the establishment and membership of the State council at least 90 days prior to the beginning of each planning period described in section 113(a)(1).

(c) Each State council shall meet as soon as practical after certification has been accepted by the Secretary and shall select from among its membership a chairperson who shall be representative of the private sector. The time, place, and manner of meeting, as well as council operating procedures and staffing, shall be as provided by the rules of the State council, except that such rules must provide for not less than one public meeting each year at which the public is given an opportunity to express views concerning the vocational education program of the State.

(d) Each State council shall—

(1) meet with the State board or its representatives during the planning year to advise on the development of the State plan;

(2) advise the State board and make reports to the Governor, the business community, and general public of the State, concerning—

(A) policies the State should pursue to strengthen vocational education (with particular attention to programs for the handicapped); and

(B) initiatives and methods the private sector could undertake to assist in the modernization of vocational education programs;

(3) analyze and report on the distribution of spending for vocational education in the State and on the availability of vocational education activities and services within the State;

(4) furnish consultation to the State board on the establishment of evaluation criteria for vocational education programs within the State;

(5) submit recommendations to the State board on the conduct of vocational education programs conducted in the State which emphasize the use of business concerns and labor organizations;

(6) assess the distribution of financial assistance furnished under this Act, particularly with the analysis of the distribution of financial assistance between secondary vocational education programs and postsecondary vocational education programs;

(7) recommend procedures to the State board to ensure and enhance the participation of the public in the provision of vocational education at the local level within the State, particularly the participation of local employers and local labor organizations;

(8) report to the State board on the extent to which the individuals described in section 201(b) are provided with equal access to quality vocational education programs; and

(9)(A) evaluate at least once every two years (i) the vocational education program delivery systems assisted under this Act, and under the Job Training Partnership Act, in terms of their adequacy and effectiveness in achieving the purposes of each of the two Acts and (ii) make recommendations to the State board on the adequacy and effectiveness of the coordination that takes place between vocational education and the Job Training Partnership Act and (B) advise the Governor, the State board, the State job training coordinating council, the Secretary, and the Secretary of Labor of these findings and recommendations.

(e) Each State council is authorized to obtain the services of such professional, technical, and clerical, personnel as may be necessary to enable it to carry out its functions under this Act and to contract for such services as may be necessary to enable the Council to carry out its evaluation functions, independent of programmatic and administrative control by other State boards, agencies, and individuals.

(f)(1)(A) From the amounts appropriated pursuant to section 3(c) the Secretary shall make grants to State councils from amounts allotted to State councils in accordance with the method for allotment contained in section 101(a)(2), without regard to paragraph (3), except that no State council shall be allotted less than $120,000 nor more than $225,000 for each fiscal year.

⟦(B) For the purpose of subparagraph (A), the term 'State' shall not include the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.⟧

(2) The expenditure of the funds paid pursuant to this subsection is to be determined solely by the State council for carrying out its functions under this Act, and may not be diverted or reprogrammed for any other purpose by any State board, agency, or individual. Each State council shall designate an appropriate State agency or other public agency, eligible to receive funds under this Act, to act as its fiscal agent for purposes of disbursement, accounting, and auditing.

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