

KEY ADULT EDUCATION ISSUES

H.R. 27

- 1. Performance Measures:** -- The House Bill requires states to collect data on increased earnings of participants. A fair number of the states do not use social security numbers for students or are constrained by privacy statute from doing so, thus preventing the use of Unemployment Insurance (UI) records. If enacted into law, this provision would require local programs to elicit pay stubs from enrollees to establish baseline data. They would then have to send out post-program surveys as much as nine months after enrollees exited the program, asking former enrollees to submit photocopies of recent pay stubs. These efforts generally have a low rate of response, which would bring in question the validity of data collected. **Until all privacy issues can be addressed and all states have UI access, we recommended the elimination of this performance indicator and to eliminate the state by state data comparison in this regard in the Secretary's report.**
- 2. For-profit eligibility:** H.R. 27 amends the definition of eligible provider to allow participation by for-profit organizations. The Council opposes the inclusion of for-profit organizations. A primary concern is the fact that for-profit education agencies usually charge tuition where nonprofit agencies do not. If an agency does not perform up to expectations or closes down, Federal and State support can be terminated. If this happens, and a student is attending a nonprofit agency, they will have lost time devoted to study, but not tuition dollars. The same is not true for a student attending a for-profit program. There is no guarantee a for-profit entity would have to reimburse tuition to a student if a program were terminated. Similarly, the law provides no powers to the State eligible agency to reimburse students, to collect funds on behalf of students, or require for-profit agencies to reimburse students. **Unless these student protection concerns are addressed, we strongly oppose allowing participation by for-profit agencies.**
- 3. National Institute for Literacy:** The Council was disappointed to note that H.R. 27 continues to modify the duties of the National Institute for Literacy (NIFL) to focus on children, youth and adults. Although we do not object to expanding the role of NIFL, we would like to point out that NIFL was created to fill a need that was not being met by the Department of Education (DOE) at that time. Even today, the focus within DOE remains on K-12 education with minimal attention provided to adult education, even though it holds the key to success for programs such as welfare reform, No Child Left Behind and job training. The newest version of legislation reauthorizing NIFL removes the national leadership role for NIFL, eliminates its role as a national resource for adult education and literacy services, and takes steps to move primary authority for NIFL to the DOE. The Council supports the continuation of current law regarding the duties of the Advisory Board and the Interagency Group. Last year's Senate bill included language to expand NIFL's duties to address the literacy needs of children and youth. However, it retained the focus of NIFL on adult education. **We encourage the Committee to revise this section of the bill along the lines of the Senate NIFL provisions.**
- 4. Use of the Words "Significant" and "Significantly."** These words appear in Section 212 and pertain to improvement of performance by the eligible agency on core indicators. The difference between improvement in performance and "significant" improvement in performance is subject to a variety of interpretations. Different groups of participants achieve at different rates. "Significant" progress for lowest level students and those with learning disabilities may not be the same as progress for higher functioning groups. Our objective, of course, is to achieve substantial progress based on the skills of individual participants, but we are concerned that significant may be defined by persons unfamiliar with these distinctions. **We ask that "significant" and "significantly" be removed from Section 212.**
- 5. SPECIAL RULE:** In some states, the state agency charged with managing adult education (and Vocational Rehabilitation and Perkins) is not governed or overseen by the Governor. For example, in New York, the New York State Education Department (NYSED) is governed by the Board of Regents. Under the state constitution, New York's legislature elects the Board of Regents to govern NYSED and the board,

in turn, appoints a Commissioner of Education. H.R. 27 uses the term “Governor” in affording new authorities over NYSED programs without taking New York’s governance structure into consideration, resulting in a significant separation of powers issue and an untenable governance predicament.

Solution: Insert the following:

SPECIAL RULE.—In a State in which the State constitution places policymaking authority that is independent of the authority of the Governor in an entity or official with respect to the funds provided for adult education and literacy activities authorized under Title II and for postsecondary vocational and technical education activities authorized under the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), or vocational rehabilitation services offered under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the determination described in subclause (I) with respect to the programs authorized under that title and those Acts shall be made by the chief officer of the entity with such authority in consultation with the Governor.

*This language is currently in the Senate WIA bill, S.9. (On Page 118: Sec. 432F. (h)(2)(A)(ii)(II).)