

Calendar No. 511

104TH CONGRESS
2^D SESSION

S. 88

[Report No. 104-331]

A BILL

To increase the overall economy and efficiency of Government operations and enable more efficient use of Federal funding, by enabling local governments and private, nonprofit organizations to use amounts available under certain Federal assistance programs in accordance with approved local flexibility plans.

JULY 23, 1996

Reported with an amendment and an amendment to the
title

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IN THE SENATE OF THE UNITED STATES

JANUARY 4, 1995

Mr. HATFIELD (for himself and Mr. INHOFE) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

JULY 23, 1996

Reported by Mr. STEVENS, with an amendment and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To increase the overall economy and efficiency of Government operations and enable more efficient use of Federal funding, by enabling local governments and private, nonprofit organizations to use amounts available under certain Federal assistance programs in accordance with approved local flexibility plans.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Local Empowerment
5 and Flexibility Act of 1995”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) historically, Federal programs have ad-
9 dressed the Nation’s problems by providing categor-
10 ical financial assistance with detailed requirements
11 relating to the use of funds;

12 (2) while the assistance described in paragraph
13 (1) has been directed at critical problems, some pro-
14 gram requirements may inadvertently impede the ef-
15 fective delivery of services;

16 (3) the Nation’s local governments and private,
17 nonprofit organizations are dealing with increasingly
18 complex problems which require the delivery of many
19 kinds of services;

20 (4) the Nation’s communities are diverse, and
21 different needs are present in different communities;

22 (5) it is more important than ever to provide
23 programs that—

1 (A) promote more effective and efficient
2 local delivery of services to meet the full range
3 of needs of individuals, families, and society;

4 (B) respond flexibly to the diverse needs of
5 the Nation's communities;

6 (C) reduce the barriers between programs
7 that impede local governments' ability to effec-
8 tively deliver services; and

9 (D) empower local governments and pri-
10 vate, nonprofit organizations to be innovative in
11 creating programs that meet the unique needs
12 of their communities while continuing to ad-
13 dress national policy goals; and

14 (6) many communities have innovative planning
15 and community involvement strategies for providing
16 services, but Federal, State, and local regulations
17 often hamper full implementation of local plans.

18 **SEC. 3. PURPOSES.**

19 The purposes of this Act are to—

20 (1) enable more efficient use of Federal, State,
21 and local resources;

22 (2) place less emphasis in Federal service pro-
23 grams on measuring resources and procedures and
24 more emphasis on achieving Federal, State, and
25 local policy goals;

1 (3) enable local governments and private, non-
 2 profit organizations to adapt programs of Federal fi-
 3 nancial assistance to the particular needs of their
 4 communities, by—

5 (A) drawing upon appropriations available
 6 from more than one Federal program; and

7 (B) integrating programs and program
 8 funds across existing Federal financial assist-
 9 ance categories; and

10 (4) enable local governments and private, non-
 11 profit organizations to work together and build
 12 stronger cooperative partnerships to address critical
 13 service problems.

14 **SEC. 4. DEFINITIONS.**

15 For purposes of this Act—

16 (1) the term “approved local flexibility plan”
 17 means a local flexibility plan that combines funds
 18 from Federal, State, local government or private
 19 sources to address the service needs of a community
 20 (or any part of such a plan) that is approved by the
 21 Flexibility Council under section 5;

22 (2) the term “community advisory committee”
 23 means such a committee established by a local gov-
 24 ernment under section 9;

1 (3) the term “Flexibility Council” means the
2 council composed of the—

3 (A) Assistant to the President for Domes-
4 tie Policy;

5 (B) Assistant to the President for Eco-
6 nomic Policy;

7 (C) Secretary of the Treasury;

8 (D) Attorney General;

9 (E) Secretary of the Interior;

10 (F) Secretary of Agriculture;

11 (G) Secretary of Commerce;

12 (H) Secretary of Labor;

13 (I) Secretary of Health and Human Serv-
14 ices;

15 (J) Secretary of Housing and Urban De-
16 velopment;

17 (K) Secretary of Transportation;

18 (L) Secretary of Education;

19 (M) Secretary of Energy;

20 (N) Secretary of Veterans Affairs;

21 (O) Secretary of Defense;

22 (P) Director of Federal Emergency Man-
23 agement Agency;

24 (Q) Administrator of the Environmental
25 Protection Agency;

1 (R) Director of National Drug Control
2 Policy;

3 (S) Administrator of the Small Business
4 Administration;

5 (T) Director of the Office of Management
6 and Budget; and

7 (U) Chair of the Council of Economic Ad-
8 visers.

9 (4) the term “covered Federal financial assist-
10 ance program” means an eligible Federal financial
11 assistance program that is included in a local flexi-
12 bility plan of a local government;

13 (5) the term “eligible Federal financial assist-
14 ance program”—

15 (A) means a Federal program under which
16 financial assistance is available, directly or indi-
17 rectly, to a local government or a qualified or-
18 ganization to carry out the specified program;
19 and

20 (B) does not include a Federal program
21 under which financial assistance is provided by
22 the Federal Government directly to a bene-
23 ficiary of that financial assistance or to a State
24 as a direct payment to an individual;

1 (6) the term “eligible local government” means
2 a local government that is eligible to receive finan-
3 cial assistance under 1 or more covered Federal pro-
4 grams;

5 (7) the term “local flexibility plan” means a
6 comprehensive plan for the integration and adminis-
7 tration by a local government of financial assistance
8 provided by the Federal Government under 2 or
9 more eligible Federal financial assistance programs;

10 (8) the term “local government” means a sub-
11 division of a State that is a unit of general local gov-
12 ernment (as defined under section 6501 of title 31,
13 United States Code);

14 (9) the term “priority funding” means giving
15 higher priority (including by the assignment of extra
16 points, if applicable) to applications for Federal fi-
17 nancial assistance submitted by a local government
18 having an approved local flexibility program, by—

19 (A) a person located in the jurisdiction of
20 such a government; or

21 (B) a qualified organization eligible for as-
22 sistance under a covered Federal financial as-
23 sistance program included in such a plan;

24 (10) the term “qualified organization” means a
25 private, nonprofit organization described in section

1 501(c)(3) of the Internal Revenue Code of 1986 that
 2 is exempt from taxation under section 501(a) of the
 3 Internal Revenue Code of 1986; and

4 (11) the term “State” means the 50 States, the
 5 District of Columbia, Puerto Rico, American Samoa,
 6 Guam, and the Virgin Islands.

7 **SEC. 5. PROVISION OF FEDERAL FINANCIAL ASSISTANCE IN**
 8 **ACCORDANCE WITH APPROVED LOCAL**
 9 **FLEXIBILITY PLAN.**

10 (a) **PAYMENTS TO LOCAL GOVERNMENTS.**—Notwith-
 11 standing any other provision of law, amounts available to
 12 a local government or a qualified organization under a cov-
 13 ered Federal financial assistance program included in an
 14 approved local flexibility plan shall be provided to and
 15 used by the local government or organization in accord-
 16 ance with the approved local flexibility plan.

17 (b) **ELIGIBILITY FOR BENEFITS.**—An individual or
 18 family that is eligible for benefits or services under a cov-
 19 ered Federal financial assistance program included in an
 20 approved local flexibility plan may receive those benefits
 21 only in accordance with the approved local flexibility plan.

1 **SEC. 6. APPLICATION FOR APPROVAL OF LOCAL FLEXIBIL-**
 2 **ITY PLAN.**

3 (a) **IN GENERAL.**—A local government may submit
 4 to the Flexibility Council in accordance with this section
 5 an application for approval of a local flexibility plan.

6 (b) **CONTENTS OF APPLICATION.**—An application
 7 submitted under this section shall include—

8 (1)(A) a proposed local flexibility plan that
 9 complies with subsection (c); or

10 (B) a strategic plan submitted in application
 11 for designation as an enterprise community or an
 12 empowerment zone under section 1391 of the Inter-
 13 nal Revenue Code of 1986;

14 (2) certification by the chief executive of the
 15 local government, and such additional assurances as
 16 may be required by the Flexibility Council, that—

17 (A) the local government has the ability
 18 and authority to implement the proposed plan,
 19 directly or through contractual or other ar-
 20 rangements, throughout the geographic area in
 21 which the proposed plan is intended to apply;
 22 and

23 (B) amounts are available from non-Fed-
 24 eral sources to pay the non-Federal share of all
 25 covered Federal financial assistance programs
 26 included in the proposed plan; and

1 ~~(3)~~ any comments on the proposed plan submit-
 2 ted under subsection ~~(d)~~ by the Governor of the
 3 State in which the local government is located;

4 ~~(4)~~ public comments on the plan including the
 5 transcript of at least ~~1~~ public hearing and comments
 6 of the appropriate community advisory committee
 7 established under section 9; and

8 ~~(5)~~ other relevant information the Flexibility
 9 Council may require to approve the proposed plan.

10 ~~(c)~~ CONTENTS OF PLAN.—A local flexibility plan sub-
 11 mitted by a local government under this section shall in-
 12 clude—

13 ~~(1)~~ the geographic area to which the plan ap-
 14 plies and the rationale for defining the area;

15 ~~(2)~~ the particular groups of individuals, by serv-
 16 ice needs, economic circumstances, or other defining
 17 factors, who shall receive services and benefits under
 18 the plan;

19 ~~(3)~~(A) specific goals and measurable perform-
 20 ance criteria, a description of how the plan is ex-
 21 pected to attain those goals and criteria;

22 ~~(B)~~ a description of how performance shall be
 23 measured; and

1 (C) a system for the comprehensive evaluation
2 of the impact of the plan on participants, the com-
3 munity, and program costs;

4 (4) the eligible Federal financial assistance pro-
5 grams to be included in the plan as covered Federal
6 financial assistance programs and the specific bene-
7 fits that shall be provided under the plan under such
8 programs, including—

9 (A) criteria for determining eligibility for
10 benefits under the plan;

11 (B) the services available;

12 (C) the amounts and form (such as cash,
13 in-kind contributions, or financial instruments)
14 of nonservice benefits; and

15 (D) any other descriptive information the
16 Flexibility Council considers necessary to ap-
17 prove the plan;

18 (5) except for the requirements under section
19 8(b)(3), any Federal statutory or regulatory require-
20 ment applicable under a covered Federal financial
21 assistance program included in the plan; the waiver
22 of which is necessary to implement the plan;

23 (6) fiscal control and related accountability pro-
24 cedures applicable under the plan;

1 (7) a description of the sources of all non-Fed-
2 eral funds that are required to carry out covered
3 Federal financial assistance programs included in
4 the plan;

5 (8) written consent from each qualified organi-
6 zation for which consent is required under section
7 6(b)(2); and

8 (9) other relevant information the Flexibility
9 Council may require to approve the plan.

10 (d) PROCEDURE FOR APPLYING.—(1) To apply for
11 approval of a local flexibility plan, a local government shall
12 submit an application in accordance with this section to
13 the Governor of the State in which the local government
14 is located.

15 (2) A Governor who receives an application from a
16 local government under paragraph (1) may, by no later
17 than 30 days after the date of that receipt—

18 (A) prepare comments on the proposed local
19 flexibility plan included in the application;

20 (B) describe any State laws which are necessary
21 to waive for successful implementation of a local
22 plan; and

23 (C) submit the application and comments to the
24 Flexibility Council.

1 (3) If a Governor fails to act within 30 days after
 2 receiving an application under paragraph (2), the applica-
 3 ble local government may submit the application to the
 4 Flexibility Council.

5 **SEC. 7. REVIEW AND APPROVAL OF LOCAL FLEXIBILITY**
 6 **PLANS.**

7 (a) **REVIEW OF APPLICATIONS.**—Upon receipt of an
 8 application for approval of a local flexibility plan under
 9 this Act, the Flexibility Council shall—

10 (1) approve or disapprove all or part of the plan
 11 within 45 days after receipt of the application;

12 (2) notify the applicant in writing of that ap-
 13 proval or disapproval by not later than 15 days after
 14 the date of that approval or disapproval; and

15 (3) in the case of any disapproval of a plan, in-
 16 clude a written justification of the reasons for dis-
 17 approval in the notice of disapproval sent to the ap-
 18 plicant.

19 (b) **APPROVAL.**—(1) The Flexibility Council may ap-
 20 prove a local flexibility plan for which an application is
 21 submitted under this Act, or any part of such a plan, if
 22 a majority of members of the Council determines that—

23 (A) the plan or part shall improve the effective-
 24 ness and efficiency of providing benefits under cov-
 25 ered Federal programs included in the plan by re-

1 ducing administrative inflexibility, duplication, and
2 unnecessary expenditures;

3 (B) the applicant local government has ade-
4 quately considered, and the plan or part of the plan
5 appropriately addresses, any effect that administra-
6 tion of each covered Federal program under the plan
7 or part of the plan shall have on administration of
8 the other covered Federal programs under that plan
9 or part of the plan;

10 (C) the applicant local government has or is de-
11 veloping data bases, planning, and evaluation proce-
12 sses that are adequate for implementing the plan or
13 part of the plan;

14 (D) the plan shall more effectively achieve Fed-
15 eral financial assistance goals at the local level and
16 shall better meet the needs of local citizens;

17 (E) implementation of the plan or part of the
18 plan shall adequately achieve the purposes of this
19 Act and of each covered Federal financial assistance
20 program under the plan or part of the plan;

21 (F) the plan and the application for approval of
22 the plan comply with the requirements of this Act;

23 (G) the plan or part of the plan is adequate to
24 ensure that individuals and families that receive ben-
25 efits under covered Federal financial assistance pro-

1 grams included in the plan or part shall continue to
2 receive benefits that meet the needs intended to be
3 met under the program; and

4 (H) the local government has—

5 (i) waived the corresponding local laws nec-
6 essary for implementation of the plan; and

7 (ii) sought any necessary waivers from the
8 State.

9 (2) The Flexibility Council may not approve any part
10 of a local flexibility plan if—

11 (A) implementation of that part would result in
12 any increase in the total amount of obligations or
13 outlays of discretionary appropriations or direct
14 spending under covered Federal financial assistance
15 programs included in that part, over the amounts of
16 such obligations and outlays that would occur under
17 those programs without implementation of the part;
18 or

19 (B) in the case of a plan or part that applies
20 to assistance to a qualified organization under an el-
21 igible Federal financial assistance program, the
22 qualified organization does not consent in writing to
23 the receipt of that assistance in accordance with the
24 plan.

1 (3) The Flexibility Council shall disapprove a part of
2 a local flexibility plan if a majority of the Council dis-
3 approves that part of the plan based on a failure of the
4 part to comply with paragraph (1).

5 (4) In approving any part of a local flexibility plan,
6 the Flexibility Council shall specify the period during
7 which the part is effective. An approved local flexibility
8 plan shall not be effective after the date of the termination
9 of effectiveness of this Act under section 13.

10 (5) Disapproval by the Flexibility Council of any part
11 of a local flexibility plan submitted by a local government
12 under this Act shall not affect the eligibility of a local gov-
13 ernment, a qualified organization, or any individual for
14 benefits under any Federal program.

15 (c) MEMORANDA OF UNDERSTANDING.—(1) The
16 Flexibility Council may not approve a part of a local flexi-
17 bility plan unless each local government and each qualified
18 organization that would receive financial assistance under
19 the plan enters into a memorandum of understanding
20 under this subsection with the Flexibility Council.

21 (2) A memorandum of understanding under this sub-
22 section shall specify all understandings that have been
23 reached by the Flexibility Council, the local government,
24 and each qualified organization that is subject to a local
25 flexibility plan, regarding the approval and implementa-

1 tion of all parts of a local flexibility plan that are the sub-
2 ject of the memorandum, including understandings with
3 respect to—

4 (A) all requirements under covered Federal fi-
5 nancial assistance programs that are to be waived by
6 the Flexibility Council under section 8(b);

7 (B)(i) the total amount of Federal funds that
8 shall be provided as benefits under or used to ad-
9 minister covered Federal financial assistance pro-
10 grams included in those parts; or

11 (ii) a mechanism for determining that amount,
12 including specification of the total amount of Fed-
13 eral funds that shall be provided or used under each
14 covered Federal financial assistance program in-
15 eluded in those parts;

16 (C) the sources of all non-Federal funds that
17 shall be provided as benefits under or used to ad-
18 minister those parts;

19 (D) measurable performance criteria that shall
20 be used during the term of those parts to determine
21 the extent to which the goals and performance levels
22 of the parts are achieved; and

23 (E) the data to be collected to make that deter-
24 mination.

1 (d) LIMITATION ON CONFIDENTIALITY REQUIRE-
 2 MENTS.—The Flexibility Council may not, as a condition
 3 of approval of any part of a local flexibility plan or with
 4 respect to the implementation of any part of an approved
 5 local flexibility plan, establish any confidentiality require-
 6 ment that would—

7 (1) impede the exchange of information needed
 8 for the design or provision of benefits under the
 9 parts; or

10 (2) conflict with law.

11 **SEC. 8. IMPLEMENTATION OF APPROVED LOCAL FLEXIBIL-**
 12 **ITY PLANS; WAIVER OF REQUIREMENTS.**

13 (a) PAYMENTS AND ADMINISTRATION IN ACCORD-
 14 ANCE WITH PLAN.—Notwithstanding any other law, any
 15 benefit that is provided under a covered Federal financial
 16 assistance program included in an approved local flexibil-
 17 ity plan shall be paid and administered in the manner
 18 specified in the approved local flexibility plan.

19 (b) WAIVER OF REQUIREMENTS.—(1) Notwithstand-
 20 ing any other law and subject to paragraphs (2) and (3),
 21 the Flexibility Council may waive any requirement applica-
 22 ble under Federal law to the administration of, or provi-
 23 sion of benefits under, any covered Federal assistance pro-
 24 gram included in an approved local flexibility plan, if that
 25 waiver is—

1 (A) reasonably necessary for the implementa-
2 tion of the plan; and

3 (B) approved by a majority of members of the
4 Flexibility Council.

5 (2) The Flexibility Council may not waive a require-
6 ment under this subsection unless the Council finds that
7 waiver of the requirement shall not result in a qualitative
8 reduction in services or benefits for any individual or fam-
9 ily that is eligible for benefits under a covered Federal fi-
10 nancial assistance program.

11 (3) The Flexibility Council may not waive any re-
12 quirement under this subsection—

13 (A) that enforces any constitutional or statu-
14 tory right of an individual, including any right
15 under—

16 (i) title VI of the Civil Rights Act of 1964
17 (42 U.S.C. 2000d et seq.);

18 (ii) section 504 of the Rehabilitation Act of
19 1973 (29 U.S.C. 701 et seq.);

20 (iii) title IX of the Education Amendments
21 of 1972 (86 Stat. 373 et seq.);

22 (iv) the Age Discrimination Act of 1975
23 (42 U.S.C. 6101 et seq.); or

24 (v) the Americans with Disabilities Act of
25 1990;

1 (B) for payment of a non-Federal share of
 2 funding of an activity under a covered Federal fi-
 3 nancial assistance program; or

4 (C) for grants received on a maintenance of ef-
 5 fort basis.

6 (c) SPECIAL ASSISTANCE.—To the extent permitted
 7 by law, the head of each Federal agency shall seek to pro-
 8 vide special assistance to a local government or qualified
 9 organization to support implementation of an approved
 10 local flexibility plan, including expedited processing, prior-
 11 ity funding, and technical assistance.

12 (d) EVALUATION AND TERMINATION.—(1) A local
 13 government, in accordance with regulations issued by the
 14 Flexibility Council, shall—

15 (A) submit such reports on and cooperate in
 16 such audits of the implementation of its approved
 17 local flexibility plan; and

18 (B) periodically evaluate the effect implementa-
 19 tion of the plan has had on—

20 (i) individuals who receive benefits under
 21 the plan;

22 (ii) communities in which those individuals
 23 live; and

1 (iii) costs of administering covered Federal
2 financial assistance programs included in the
3 plan.

4 (2) No later than 90 days after the end of the 1-
5 year period beginning on the date of the approval by the
6 Flexibility Council of an approved local flexibility plan of
7 a local government, and annually thereafter, the local gov-
8 ernment shall submit to the Flexibility Council a report
9 on the principal activities and achievements under the plan
10 during the period covered by the report, comparing those
11 achievements to the goals and performance criteria in-
12 cluded in the plan under section 6(e)(3).

13 (3)(A) The Flexibility Council may terminate the ef-
14 fectiveness of an approved local flexibility plan, if the
15 Flexibility Council, after consultation with the head of
16 each Federal agency responsible for administering a cov-
17 ered Federal financial assistance program included in
18 such, determines—

19 (i) that the goals and performance criteria in-
20 cluded in the plan under section 6(e)(3) have not
21 been met; and

22 (ii) after considering any experiences gained in
23 implementation of the plan, that those goals and cri-
24 teria are sound.

1 (B) In terminating the effectiveness of an approved
2 local flexibility plan under this paragraph, the Flexibility
3 Council shall allow a reasonable period of time for appro-
4 priate Federal, State, and local agencies and qualified or-
5 ganizations to resume administration of Federal programs
6 that are covered Federal financial assistance programs in-
7 cluded in the plan.

8 (c) FINAL REPORT; EXTENSION OF PLANS.—(1) No
9 later than 45 days after the end of the effective period
10 of an approved local flexibility plan of a local government,
11 or at any time that the local government determines that
12 the plan has demonstrated its worth, the local government
13 shall submit to the Flexibility Council a final report on
14 its implementation of the plan, including a full evaluation
15 of the successes and shortcomings of the plan and the ef-
16 fects of that implementation on individuals who receive
17 benefits under those programs.

18 (2) The Flexibility Council may extend the effective
19 period of an approved local flexibility plan for such period
20 as may be appropriate, based on the report of a local gov-
21 ernment under paragraph (1).

22 **SEC. 9. COMMUNITY ADVISORY COMMITTEES.**

23 (a) ESTABLISHMENT.—A local government that ap-
24 plies for approval of a local flexibility plan under this Act

1 shall establish a community advisory committee in accord-
2 ance with this section.

3 (b) FUNCTIONS.—A community advisory committee
4 shall advise a local government in the development and
5 implementation of its local flexibility plan, including advice
6 with respect to—

7 (1) conducting public hearings; and

8 (2) reviewing and commenting on all commu-
9 nity policies, programs, and actions under the plan
10 which affect low income individuals and families,
11 with the purpose of ensuring maximum coordination
12 and responsiveness of the plan in providing benefits
13 under the plan to those individuals and families.

14 (c) MEMBERSHIP.—The membership of a community
15 advisory committee shall—

16 (1) consist of—

17 (A) persons with leadership experience in
18 the private and voluntary sectors;

19 (B) local elected officials;

20 (C) representatives of participating quali-
21 fied organizations; and

22 (D) the general public; and

23 (2) include individuals and representatives of
24 community organizations who shall help to enhance

1 the leadership role of the local government in devel-
 2 oping a local flexibility plan.

3 (d) OPPORTUNITY FOR REVIEW AND COMMENT BY
 4 COMMITTEE.—Before submitting an application for ap-
 5 proval of a final proposed local flexibility plan, a local gov-
 6 ernment shall submit the final proposed plan for review
 7 and comment by a community advisory committee estab-
 8 lished by the local government.

9 (e) COMMITTEE REVIEW OF REPORTS.—Before sub-
 10 mitting annual or final reports on an approved Federal
 11 assistance plan, a local government or private nonprofit
 12 organization shall submit the report for review and com-
 13 ment to the community advisory committee.

14 **SEC. 10. TECHNICAL AND OTHER ASSISTANCE.**

15 (a) TECHNICAL ASSISTANCE.—(1) The Flexibility
 16 Council may provide, or direct that the head of a Federal
 17 agency provide, technical assistance to a local government
 18 or qualified organization in developing information nec-
 19 essary for the design or implementation of a local flexibil-
 20 ity plan.

21 (2) Assistance may be provided under this subsection
 22 if a local government makes a request that includes, in
 23 accordance with requirements established by the Flexibil-
 24 ity Council—

1 (A) a description of the local flexibility plan the
2 local government proposes to develop;

3 (B) a description of the groups of individuals to
4 whom benefits shall be provided under covered Fed-
5 eral assistance programs included in the plan; and

6 (C) such assurances as the Flexibility Council
7 may require that—

8 (i) in the development of the application to
9 be submitted under this title for approval of the
10 plan, the local government shall provide ade-
11 quate opportunities to participate to—

12 (I) individuals and families that shall
13 receive benefits under covered Federal fi-
14 nancial assistance programs included in
15 the plan; and

16 (II) governmental agencies that ad-
17 minister those programs; and

18 (ii) the plan shall be developed after con-
19 sidering fully—

20 (I) needs expressed by those individ-
21 uals and families;

22 (II) community priorities; and

23 (III) available governmental resources
24 in the geographic area to which the plan
25 shall apply.

1 (b) DETAILS TO COUNCIL.—At the request of the
2 Flexibility Council and with the approval of an agency
3 head who is a member of the Council, agency staff may
4 be detailed to the Flexibility Council on a nonreimbursable
5 basis.

6 **SEC. 11. FLEXIBILITY COUNCIL.**

7 (a) FUNCTIONS.—The Flexibility Council shall—

8 (1) receive, review, and approve or disapprove
9 local flexibility plans for which approval is sought
10 under this Act;

11 (2) upon request from an applicant for such ap-
12 proval, direct the head of an agency that administers
13 a covered Federal financial assistance program
14 under which substantial Federal financial assistance
15 would be provided under the plan to provide tech-
16 nical assistance to the applicant;

17 (3) monitor the progress of development and
18 implementation of local flexibility plans;

19 (4) perform such other functions as are as-
20 signed to the Flexibility Council by this Act; and

21 (5) issue regulations to implement this Act
22 within 180 days after the date of its enactment.

23 (b) REPORTS.—No less than 18 months after the
24 date of the enactment of this Act, and annually thereafter,
25 the Flexibility Council shall submit a report on the 5 Fed-

1 eral regulations that are most frequently waived by the
2 Flexibility Council for local governments with approved
3 local flexibility plans to the President and the Congress.
4 The President shall review the report and determine
5 whether to amend or terminate such Federal regulations.

6 **SEC. 12. REPORT.**

7 No later than 54 months after the date of the enact-
8 ment of this Act, the Comptroller General of the United
9 States shall submit to the Congress, a report that—

10 (1) describes the extent to which local govern-
11 ments have established and implemented approved
12 local flexibility plans;

13 (2) evaluates the effectiveness of covered Fed-
14 eral assistance programs included in approved local
15 flexibility plans; and

16 (3) includes recommendations with respect to
17 local flexibility.

18 **SEC. 13. CONDITIONAL TERMINATION.**

19 This Act is repealed on the date that is 5 years after
20 the date of the enactment of this Act unless extended by
21 the Congress through the enactment of the resolution de-
22 scribed under section 14.

1 **SEC. 14. JOINT RESOLUTION FOR THE CONTINUATION AND**
 2 **EXPANSION OF LOCAL FLEXIBILITY PRO-**
 3 **GRAMS.**

4 (a) DESCRIPTION OF RESOLUTION.—A resolution re-
 5 ferred to under section 13 is a joint resolution the matter
 6 after the resolving clause is as follows: “That Congress
 7 approves the application of local flexibility plans to all
 8 local governments in the United States in accordance with
 9 the Local Empowerment and Flexibility Act of 1995, and
 10 that—

11 “(1) if the provisions of such Act have not been
 12 repealed under section 13 of such Act, such provi-
 13 sions shall remain in effect; and

14 “(2) if the repeal under section 13 of such Act
 15 has taken effect, the provisions of such Act shall be
 16 effective as though such provisions had not been re-
 17 pealed.”.

18 (b) INTRODUCTION.—No later than 30 days after the
 19 transmittal by the Comptroller General of the United
 20 States to the Congress of the report required in section
 21 12, a resolution as described under subsection (a) shall
 22 be introduced in the Senate by the chairman of the Com-
 23 mittee on Governmental Affairs, or by a Member or Mem-
 24 bers of the Senate designated by such chairman, and shall
 25 be introduced in the House of Representatives by the
 26 Chairman of the Committee on Government Operations,

1 or by a Member or Members of the House of Representa-
2 tives designated by such chairman.

3 (c) REFERRAL.—A resolution as described under sub-
4 section (a) shall be referred to the Committee on Govern-
5 mental Affairs of the Senate and the Committee on Gov-
6 ernment Operations of the House of Representatives. The
7 committee shall make its recommendations to the Senate
8 or House of Representatives within 30 calendar days of
9 the date of such resolution's introduction.

10 (d) DISCHARGE FROM COMMITTEE.—If the commit-
11 tee to which a resolution is referred has not reported such
12 resolution at the end of 30 calendar days after its intro-
13 duction, that committee shall be deemed to be discharged
14 from further consideration of such resolution and such
15 resolution shall be placed on the appropriate calendar of
16 the House involved.

17 (e) VOTE ON FINAL PASSAGE.—When the committee
18 has reported or has been deemed to be discharged from
19 further consideration of a resolution described under sub-
20 section (a), it is at any time thereafter in order for any
21 Member of the respective House to move to proceed to
22 the consideration of the resolution.

23 (f) RULES OF THE SENATE AND HOUSE.—This sec-
24 tion is enacted by Congress—

1 (1) as an exercise of the rulemaking power of
 2 the Senate and House of Representatives, respec-
 3 tively, and as such it is deemed a part of the rules
 4 of each House, respectively, but applicable only with
 5 respect to the procedure to be followed in that
 6 House in the case of a resolution described in sub-
 7 section (a), and it supersedes other rules only to the
 8 extent that it is inconsistent with such rules; and

9 (2) with full recognition of the constitutional
 10 right of either House to change the rules (so far as
 11 relating to the procedure of that House) at any time,
 12 in the same manner, and to the same extent as in
 13 the case of any other rule of that House.

14 **SECTION 1. SHORT TITLE.**

15 *This Act may be cited as the “Local Empowerment*
 16 *and Flexibility Act of 1996”.*

17 **SEC. 2. FINDINGS.**

18 *The Congress finds that—*

19 (1) *historically, Federal programs have ad-*
 20 *dressed the Nation’s problems by providing categor-*
 21 *ical financial assistance with detailed requirements*
 22 *relating to the use of funds;*

23 (2) *while the assistance described in paragraph*
 24 *(1) has been directed at critical problems, some pro-*

1 *gram requirements may inadvertently impede the ef-*
2 *fective delivery of services;*

3 *(3) the Nation’s State, local, and tribal govern-*
4 *ments and private, nonprofit organizations are deal-*
5 *ing with increasingly complex problems which require*
6 *the delivery of many kinds of services;*

7 *(4) the Nation’s communities are diverse, and*
8 *different needs are present in different communities;*

9 *(5) it is more important than ever to provide*
10 *programs that—*

11 *(A) promote more effective and efficient de-*
12 *livery of services at all levels of government to*
13 *meet the full range of needs of individuals, fami-*
14 *lies, and society;*

15 *(B) respond flexibly to the diverse needs of*
16 *the Nation’s communities;*

17 *(C) reduce the barriers between programs*
18 *that impede the State, local, and tribal govern-*
19 *ments’ ability to effectively deliver services; and*

20 *(D) empower State, local, and tribal gov-*
21 *ernments and private, nonprofit organizations to*
22 *be innovative in creating programs that meet the*
23 *unique needs of their communities while continu-*
24 *ing to address national policy goals; and*

1 (6) *many communities have innovative planning*
2 *and community involvement strategies for providing*
3 *services, but Federal, State, and local grant and other*
4 *requirements often hamper effective implementation of*
5 *such strategies.*

6 **SEC. 3. PURPOSES.**

7 *The purposes of this Act are to—*

8 (1) *enable more efficient and effective use of Fed-*
9 *eral, State, and local resources;*

10 (2) *place less emphasis in Federal service pro-*
11 *grams on complying with procedures and more em-*
12 *phasis on achieving Federal, State, local, and tribal*
13 *policy goals;*

14 (3) *enable State, local, and tribal governments*
15 *and private, nonprofit organizations to adapt pro-*
16 *grams of Federal financial assistance to the particu-*
17 *lar needs of their communities, by integrating pro-*
18 *grams and program funds across existing Federal fi-*
19 *nancial assistance programs that have similar pur-*
20 *poses;*

21 (4) *enable State, local, and tribal governments*
22 *and private, nonprofit organizations to work together*
23 *and build stronger cooperative partnerships to ad-*
24 *dress critical service problems;*

1 (5) *facilitate State, local, and tribal government*
2 *efforts to develop regional or metropolitan solutions to*
3 *shared problems;*

4 (6) *improve the efficiency and effectiveness of*
5 *governmental operations at all levels of government;*
6 *and*

7 (7) *improve the delivery of services to the public.*

8 **SEC. 4. DEFINITIONS.**

9 *For purposes of this Act:*

10 (1) *APPROVED FLEXIBILITY PLAN.*—*The term*
11 *“approved flexibility plan” means a flexibility plan*
12 *or that part of a flexibility plan, that is approved by*
13 *the Community Empowerment Board under section 8.*

14 (2) *BOARD.*—*The term “Board” means the Com-*
15 *munity Empowerment Board established under sec-*
16 *tion 5.*

17 (3) *DIRECTOR.*—*The term “Director” means the*
18 *Director of the Office of Management and Budget.*

19 (4) *ELIGIBLE APPLICANT.*—*The term “eligible*
20 *applicant” means a State, local, or tribal government,*
21 *qualified organization, or qualified consortium that is*
22 *eligible to receive financial assistance under 1 or*
23 *more eligible Federal financial assistance programs.*

1 (5) *ELIGIBLE FEDERAL FINANCIAL ASSISTANCE*
2 *PROGRAM.*—*The term “eligible Federal financial as-*
3 *sistance program”*—

4 (A) *except as provided in subparagraph*
5 *(B), means a domestic assistance program (as*
6 *defined under section 6101(4) of title 31, United*
7 *States Code) under which financial assistance is*
8 *available, directly or indirectly, to a State, local,*
9 *or tribal government or a qualified organization*
10 *to carry out activities consistent with national*
11 *policy goals; and*

12 (B) *does not include—*

13 (i) *a Federal program under which di-*
14 *rect financial assistance is provided by the*
15 *Federal Government directly to an individ-*
16 *ual beneficiary of that financial assistance,*
17 *or to a State to provide direct financial or*
18 *food voucher assistance directly to an indi-*
19 *vidual beneficiary;*

20 (ii) *a program carried out with direct*
21 *spending (as defined in section 250(c)(8) of*
22 *the Balanced Budget and Emergency Defi-*
23 *cit Control Act of 1985 (2 U.S.C.*
24 *900(c)(8)); or*

1 (iii) a program of assistance referred
2 to in section 6101(4)(A)(ix) of title 31,
3 United States Code.

4 (6) *EMPOWERMENT ZONE-ELIGIBLE AREA.*—The
5 term “empowerment zone-eligible area” means any
6 area nominated for designation under subchapter U
7 of chapter I of the Internal Revenue Code of 1986 that
8 was ruled as meeting the technical eligibility stand-
9 ards established for that Federal policy.

10 (7) *FLEXIBILITY PLAN.*—The term “flexibility
11 plan” means a comprehensive plan or part of such
12 plan for the integration and administration by an el-
13 igible applicant of financial assistance provided by
14 the Federal Government under 2 or more eligible Fed-
15 eral financial assistance programs that combines
16 funds from Federal, State, local, or tribal government
17 or private sources to address the service needs of a
18 community.

19 (8) *LOCAL GOVERNMENT.*—The term “local gov-
20 ernment” means—

21 (A) a political subdivision of a State that
22 is a unit of general local government (as defined
23 under section 6501 of title 31, United States
24 Code);

1 (B) any combination of political subdivi-
2 sions described in subparagraph (A) that sub-
3 mits an application to the Board; or

4 (C) a local educational agency as defined
5 under section 14101(18) of the Elementary and
6 Secondary Education Act of 1965 (20 U.S.C.
7 8801(18)).

8 (9) *QUALIFIED CONSORTIUM.*—The term “quali-
9 fied consortium” means a group that is composed of
10 2 or more qualified organizations, State, local, or
11 tribal agencies that receive federally appropriated
12 funds.

13 (10) *QUALIFIED ORGANIZATION.*—The term
14 “qualified organization” means a private, nonprofit
15 organization described in section 501(c)(3) of the In-
16 ternal Revenue Code of 1986 (26 U.S.C. 501(c)(3))
17 that is exempt from taxation under section 501(a) of
18 the Internal Revenue Code of 1986 (26 U.S.C.
19 501(a)).

20 (11) *SMALL GOVERNMENT.*—The term “small
21 government” means any small governmental jurisdic-
22 tion defined in section 601(5) of title 5, United States
23 Code, and a tribal government.

1 (12) *STATE*.—The term “State” means each of
2 the 50 States, the District of Columbia, Puerto Rico,
3 American Samoa, Guam, and the Virgin Islands.

4 (13) *STATE LEGISLATIVE OFFICIAL*.—The term
5 “State legislative official” means—

6 (A) the majority leader of a chamber of a
7 State legislature; and

8 (B) the minority leader of a chamber of a
9 State legislature.

10 (14) *TRIBAL GOVERNMENT*.—The term “tribal
11 government” means the governing entity of an Indian
12 tribe, as that term is defined in the Federally Recog-
13 nized Tribe List Act of 1994 (25 U.S.C. 479a).

14 **SEC. 5. ESTABLISHMENT OF COMMUNITY EMPOWERMENT**
15 **BOARD.**

16 (a) *IN GENERAL*.—There is established a Community
17 Empowerment Board, which shall consist of—

18 (1) the Secretary of Housing and Urban Devel-
19 opment;

20 (2) the Secretary of Health and Human Serv-
21 ices;

22 (3) the Secretary of Agriculture;

23 (4) the Secretary of Transportation;

24 (5) the Secretary of Education;

25 (6) the Secretary of Commerce;

1 (7) *the Secretary of Labor;*

2 (8) *the Secretary of the Treasury;*

3 (9) *the Attorney General;*

4 (10) *the Secretary of the Interior;*

5 (11) *the Secretary of Energy;*

6 (12) *the Secretary of Veterans Affairs;*

7 (13) *the Secretary of Defense;*

8 (14) *the Director of the Federal Emergency Man-*
9 *agement Agency;*

10 (15) *the Administrator of the Environmental*
11 *Protection Agency;*

12 (16) *the Director of National Drug Control Pol-*
13 *icy;*

14 (17) *the Administrator of the Small Business*
15 *Administration;*

16 (18) *the Director of the Office of Management*
17 *and Budget; and*

18 (19) *the Administrator of General Services.*

19 (b) *CHAIR.—The President shall designate the Chair*
20 *of the Board from among its members.*

21 (c) *FUNCTIONS.—The Board shall—*

22 (1) *receive, review, and approve or disapprove*
23 *flexibility plans in accordance with section 7;*

24 (2) *consider all requests for technical assistance*
25 *from eligible applicants and, when appropriate, di-*

1 *rect the head of an agency that administers an eligi-*
2 *ble Federal financial assistance program under which*
3 *substantial Federal financial assistance would be pro-*
4 *vided under the plan to provide technical assistance*
5 *to the applicant;*

6 *(3) in consultation with the Director, monitor*
7 *the progress of development and implementation of*
8 *flexibility plans;*

9 *(4) in consultation with the Director, coordinate*
10 *and assist Federal agencies in eliminating, revising,*
11 *and coordinating regulations;*

12 *(5) evaluate performance standards and evalua-*
13 *tion criteria for eligible Federal financial assistance*
14 *programs, and make specific recommendations to*
15 *agencies regarding how to revise such standards and*
16 *criteria in order to establish specific performance and*
17 *outcome measures upon which the success of such pro-*
18 *grams and the success of the plan may be compared*
19 *and evaluated; and*

20 *(6) issue guidance to implement this Act within*
21 *180 days after the date of enactment of this Act.*

22 *(d) COORDINATION AND ASSISTANCE.—The Director,*
23 *in consultation with the Board, shall coordinate and as-*
24 *sist—*

1 (A) the applicant has the ability, authority,
2 and resources to implement the proposed plan,
3 throughout the geographic area in which the pro-
4 posed plan is intended to apply; and

5 (B) amounts are available from non-Federal
6 sources to pay the non-Federal share of all eligi-
7 ble Federal financial assistance programs in-
8 cluded in the proposed plan;

9 (3) all comments on the proposed plan submitted
10 under subsection (d) by a Governor, affected State
11 agency head, State legislative official of a State, or a
12 chief executive of a local or tribal government that
13 would be directly affected by implementation of the
14 proposed plan, and the applicant's responses to those
15 comments;

16 (4) written documentation showing significant
17 public input into the development of the plan from
18 the range of interests directly affected by the plan, in-
19 cluding those who are intended beneficiaries of the
20 plan; and

21 (5) other relevant information the Board may re-
22 quire to approve the proposed plan.

23 (c) *CONTENTS OF PLAN.*—A flexibility plan submitted
24 by an eligible applicant under this section shall include—

1 (1) *the geographic area and timeframe to which*
2 *the plan applies and the rationale for selecting the*
3 *area and timeframe;*

4 (2) *the particular groups of individuals, by serv-*
5 *ice needs, economic circumstances, or other defining*
6 *factors, who would receive services and benefits under*
7 *the plan;*

8 (3)(A) *specific goals and measurable performance*
9 *criteria that demonstrate how the plan is expected to*
10 *improve the delivery of services to the public;*

11 (B) *a description of how performance shall be*
12 *measured; and*

13 (C) *a system for the comprehensive evaluation of*
14 *the impact of the plan on individuals who receive*
15 *services in the community, affected by the plan, that*
16 *shall include—*

17 (i) *a list of goals to improve the community*
18 *and the lives of its citizens in the geographic*
19 *area covered by the plan;*

20 (ii) *a list of goals identified by the State in*
21 *which the plan is to be implemented, if such*
22 *goals have been established by the State; and*

23 (iii) *a description of how the plan will—*

24 (I) *attain the goals listed in clause (ii);*

25 (II) *measure performance; and*

1 (III) collect and maintain data;

2 (4) the eligible Federal financial assistance pro-
3 grams included in the plan and the specific benefits
4 to be provided under the plan under such programs,
5 including—

6 (A) criteria for determining eligibility for
7 benefits under the plan;

8 (B) the services available;

9 (C) the amounts and form (such as cash, in-
10 kind contributions, or financial instruments) of
11 nonservice benefits; and

12 (D) any other descriptive information the
13 Board considers necessary to approve the plan;

14 (5) a description of the statutory goals and pur-
15 poses of each Federal financial assistance program in-
16 cluded in the plan;

17 (6) except for the requirements described under
18 section 7(f)(3), any Federal statutory or regulatory
19 requirement of an eligible Federal financial assistance
20 program included in the plan, the waiver of which is
21 necessary to implement the plan, and the detailed jus-
22 tification for the waiver request;

23 (7) any State, local, or tribal statutory, regu-
24 latory, or other requirement, the waiver of which is
25 necessary to implement the plan, and indicia of com-

1 *mitments by the relevant State, local, or tribal gov-*
2 *ernments to grant such waivers;*

3 *(8) fiscal control and related accountability pro-*
4 *cedures applicable under the plan;*

5 *(9) a description of the sources of all non-Federal*
6 *funds that are required to carry out eligible Federal*
7 *financial assistance programs included in the plan;*

8 *(10) written certification from each State, local,*
9 *or tribal government for which certification is re-*
10 *quired under subsection (b)(2); and*

11 *(11) other relevant information the Board may*
12 *require to approve the plan.*

13 *(d) PROCEDURE FOR APPLYING.—*

14 *(1) SUBMISSION TO AFFECTED STATE AND LOCAL*
15 *GOVERNMENTS.—An eligible applicant shall submit*
16 *an application for approval of a proposed flexibility*
17 *plan to each State government and each local govern-*
18 *ment that the applicant deems to be directly affected*
19 *by the plan, at least 60 days before submitting the*
20 *application to the Board.*

21 *(2) ACTION BY AFFECTED GOVERNMENT.—The*
22 *Governor, affected State agency head, State legislative*
23 *official, and the chief executive officer of a local gov-*
24 *ernment that receives an application submitted under*

1 paragraph (1) may each, by no later than 60 days
2 after the date of that receipt—

3 (A) prepare comments on the proposed flexi-
4 bility plan included in the application;

5 (B) describe and make commitments to
6 waive any State or local laws or other require-
7 ments which are necessary for successful imple-
8 mentation of the proposed plan; and

9 (C) submit the comments and commitments
10 to the eligible applicant.

11 (3) *SUBMITTAL TO BOARD.*—If the Governor, af-
12 fected State agency head, or a State legislative official
13 of a State or the chief executive officer of a local gov-
14 ernment—

15 (A) fails to act on or otherwise endorse a
16 plan application within 60 days after receiving
17 an application under paragraph (1);

18 (B) does not make and submit to the eligible
19 applicant the commitments described in para-
20 graph (2) (A) and (B); or

21 (C) disagrees with all or part of the pro-
22 posed flexibility plan;

23 the eligible applicant may submit the application to
24 the Board if the application is amended as necessary
25 for the successful implementation of the proposed plan

1 *without the commitment made under paragraph*
2 *(2)(B), including by adding a discussion regarding*
3 *the ability of the proposed flexibility plan to meet*
4 *plan goals and satisfy performance criteria in the ab-*
5 *sence of statutory and regulatory waivers and finan-*
6 *cial and technical support from the State or local gov-*
7 *ernment.*

8 *(e) TRIBAL SOVEREIGNTY.—Nothing under this Act*
9 *shall be construed to affect, or otherwise alter, the sovereign*
10 *relationship between tribal governments and the Federal*
11 *Government.*

12 *(f) ELIGIBILITY FOR OTHER ASSISTANCE.—Dis-*
13 *approval by the Board of a flexibility plan submitted by*
14 *an eligible applicant under this Act shall not affect the eli-*
15 *gibility of the applicant for assistance under any Federal*
16 *program.*

17 *(g) STATE, LOCAL, OR TRIBAL AUTHORITY.—Nothing*
18 *in this Act shall be construed to grant the Board, Federal*
19 *agency, or any eligible applicant authority to waive or oth-*
20 *erwise preempt—*

21 *(1) any State, local, or tribal law or regulation;*

22 *or*

23 *(2) any State or local administrative or imple-*
24 *mentation plan of an eligible Federal financial assist-*
25 *ance program unless such plan is requested to be*

1 (2) *review plans in accordance with this section;*

2 (3) *approve or disapprove the plan within 120*
3 *days after receipt of the plan, except that the Board*
4 *may extend this period by another 60 days if—*

5 (A) *the Board determines that additional*
6 *information or clarification is needed from the*
7 *applicant to make a decision regarding the ap-*
8 *plication; or*

9 (B) *the applicant requests additional time*
10 *to modify its application;*

11 (4) *notify the applicant in writing of that ap-*
12 *proval or disapproval by not later than 15 days after*
13 *the date of that approval or disapproval; and*

14 (5) *in the case of any disapproval of a plan, in-*
15 *clude a written justification of the reasons for dis-*
16 *approval in the notice of disapproval sent to the ap-*
17 *plicant.*

18 (c) *APPROVAL.—*

19 (1) *IN GENERAL.—The Board may approve a*
20 *flexibility plan for which an application is submitted*
21 *by an eligible applicant under this Act, if the Board*
22 *determines that—*

23 (A) *the plan will improve the effectiveness*
24 *and efficiency of providing benefits under eligible*
25 *Federal financial assistance programs included*

1 *in the plan such as reducing administrative in-*
2 *flexibility, duplication, and unnecessary expend-*
3 *itures;*

4 *(B) the plan shall improve the delivery of*
5 *services to the community by improving the per-*
6 *formance of the eligible Federal financial assist-*
7 *ance programs included in the plan when com-*
8 *pared to existing program performance;*

9 *(C) the eligible applicant has adequately*
10 *considered, and the plan appropriately address-*
11 *es, any effect that administration of each eligible*
12 *Federal financial assistance program under the*
13 *plan will have on administration of any other*
14 *eligible Federal financial assistance programs*
15 *under the plan;*

16 *(D) the eligible applicant has or is develop-*
17 *ing data bases, planning, and evaluation proc-*
18 *esses for determining whether implementation of*
19 *the plan includes the specific goals, measurable*
20 *performance criteria, comprehensive evaluation*
21 *system, and other matters required under section*
22 *6(c)(3);*

23 *(E) the plan will more effectively achieve*
24 *the goals of each eligible Federal financial assist-*
25 *ance program included in the plan at the State,*

1 *local, and tribal level and will better meet the*
2 *needs of State, local, and tribal citizens;*

3 *(F) implementation of the plan will ade-*
4 *quately achieve the purposes of this Act and of*
5 *each eligible Federal financial assistance pro-*
6 *gram included in the plan;*

7 *(G) the plan and the application for ap-*
8 *proval of the plan comply with the requirements*
9 *of this Act;*

10 *(H)(i) the State, local, or tribal govern-*
11 *ments have waived the corresponding State,*
12 *local, or tribal laws of the applicant necessary*
13 *for implementation of the plan; or*

14 *(ii) the eligible applicant has obtained com-*
15 *mitments for any additional necessary waivers*
16 *from other State, local, or tribal governments;*

17 *(I) Federal funds made available under the*
18 *plan will not supplant non-Federal funds for ex-*
19 *isting services and activities that promote the*
20 *goals of the plan; and*

21 *(J) none of the Federal or non-Federal*
22 *funds used under the plan would be used—*

23 *(i) to pay the non-Federal share of ac-*
24 *tivities under programs that are not eligible*
25 *Federal financial assistance programs; or*

1 (ii) to meet maintenance of effort re-
2 quirements of such an activity.

3 (2) *LIMITATION ON AUTHORITY TO APPROVE*
4 *CERTAIN PLANS.—The Board may not approve a*
5 *flexibility plan—*

6 (A) if implementation of the plan would re-
7 sult in any increase in the total amount of obli-
8 gations or outlays of discretionary appropria-
9 tions or direct spending under eligible Federal fi-
10 nancial assistance programs, over the amounts of
11 such obligations and outlays that would occur
12 under those programs without implementation of
13 the plan; or

14 (B) in the case of a plan that applies to as-
15 sistance to a qualified organization under an eli-
16 gible Federal financial assistance program, if the
17 qualified organization does not consent in writ-
18 ing to the receipt of that assistance in accord-
19 ance with the plan.

20 (3) *REQUIREMENT TO DISAPPROVE PLAN.—The*
21 *Board shall disapprove a flexibility plan if the Board*
22 *determines that the plan fails to comply with para-*
23 *graph (1).*

24 (4) *SPECIFICATION OF PERIOD OF EFFECTIVE-*
25 *NESS.—*

1 (A) *IN GENERAL.*—*In approving any flexi-*
 2 *bility plan, the Board shall specify the period*
 3 *during which the plan is effective, which in no*
 4 *case shall be greater than 5 years from the date*
 5 *of approval.*

6 (B) *EFFECTIVENESS AFTER TERMINATION*
 7 *OF THIS ACT.*—*An approved flexibility plan*
 8 *shall be effective for the period of time specified*
 9 *by the Board, regardless of whether that time ex-*
 10 *tends beyond the date of the termination of the*
 11 *effectiveness of this Act under section 13.*

12 (C) *EFFECTIVE PERIOD SHORTER THAN*
 13 *PROPOSED.*—*The Board may specify an effective*
 14 *period for an approved flexibility plan that is*
 15 *shorter than a period proposed by the eligible ap-*
 16 *plicant for the plan.*

17 (d) *MEMORANDA OF UNDERSTANDING REQUIRED.*—

18 (1) *IN GENERAL.*—*The Board may not approve*
 19 *a flexibility plan unless each approved applicant that*
 20 *would receive Federal financial assistance adminis-*
 21 *tered under the plan enters into a memorandum of*
 22 *understanding under this subsection with the Board.*

23 (2) *CONTENTS.*—*A memorandum of understand-*
 24 *ing under this subsection shall specify all understand-*
 25 *ings that have been reached by the Board, Federal*

1 *agencies administering eligible Federal financial as-*
2 *stance programs under the flexibility plan, approved*
3 *applicants that are subject to the plan, regarding the*
4 *approval and implementation of the plan. The memo-*
5 *randum shall include understandings with respect*
6 *to—*

7 *(A) all requirements under eligible Federal*
8 *financial assistance programs that are to be*
9 *waived under section 8(f) by the Board;*

10 *(B) all State, local, or tribal statutory and*
11 *regulatory requirements that are to be waived;*

12 *(C)(i) the total amount of Federal funds*
13 *that will be provided as benefits under or used*
14 *to administer eligible Federal financial assist-*
15 *ance programs included in the plan; or*

16 *(ii) a mechanism for determining that*
17 *amount, including specification of the total*
18 *amount of Federal funds that will be provided or*
19 *used under each eligible Federal financial assist-*
20 *ance program included in the plan;*

21 *(D) the sources of all non-Federal funds and*
22 *technical support that shall be provided as bene-*
23 *fits under or used to administer the plan;*

24 *(E) measurable performance criteria that*
25 *will be used during the effective period of the*

1 *plan to determine the extent to which the goals*
 2 *and performance levels included in the plan are*
 3 *achieved; and*

4 *(F) the data to be collected to make that de-*
 5 *termination.*

6 *(e) LIMITATION ON CONFIDENTIALITY REQUIRE-*
 7 *MENTS.—The Board may not, as a condition of approval*
 8 *of a flexibility plan or with respect to the implementation*
 9 *of an approved flexibility plan, establish any confidential-*
 10 *ity requirement that would—*

11 *(1) impede the exchange of information needed*
 12 *for the design or provision of benefits under the plan;*
 13 *or*

14 *(2) conflict with law.*

15 *(f) WAIVERS OF FEDERAL REQUIREMENTS.—*

16 *(1) IN GENERAL.—Notwithstanding any other*
 17 *law and subject to paragraphs (2) and (3), affected*
 18 *Federal agencies may waive for a period of time not*
 19 *to exceed 5 years from the time of approval of the*
 20 *plan any statutory or regulatory requirement of an*
 21 *eligible Federal assistance program included in an*
 22 *approved flexibility plan of an eligible applicant if*
 23 *that waiver is—*

24 *(A) reasonably necessary for the implemen-*
 25 *tation of the plan; and*

1 (B) not disapproved by the Board.

2 (2) *EFFECTIVE PERIOD OF WAIVER.*—A waiver
3 under this subsection shall—

4 (A) terminate no later than the end date of
5 the plan approved under this section; and

6 (B) terminate on the earlier of—

7 (i) the expiration of a period specified
8 by the Board, not to exceed 5 years from the
9 effective date of the waiver; or

10 (ii) any date on which the flexibility
11 plan for which the waiver is granted ceases
12 to be effective.

13 (3) *REQUIREMENTS THAT MAY NOT BE*
14 *WAIVED.*—Affected Federal agencies may not waive
15 under this subsection any requirement that enforces
16 any constitutional right or any right under—

17 (A) title VI of the Civil Rights Act of 1964
18 (42 U.S.C. 2000d et seq.);

19 (B) section 504 of the Rehabilitation Act of
20 1973 (29 U.S.C. 701 et seq.);

21 (C) title IX of the Education Amendments
22 of 1972 (86 Stat. 373 et seq.);

23 (D) the Age Discrimination Act of 1975 (42
24 U.S.C. 6101 et seq.);

1 (E) the Americans with Disabilities Act of
2 1990 (42 U.S.C. 12101 et seq.); or

3 (F) the Individuals with Disabilities Edu-
4 cation Act (20 U.S.C. 1400 et seq.).

5 **SEC. 8. IMPLEMENTATION OF APPROVED FLEXIBILITY**
6 **PLANS.**

7 (a) *PAYMENTS AND ADMINISTRATION IN ACCORDANCE*
8 *WITH PLAN.*—Notwithstanding any other law, any benefit
9 that is provided under an eligible Federal financial assist-
10 ance program included in an approved flexibility plan shall
11 be paid and administered in the manner specified in the
12 approved flexibility plan.

13 (b) *SPECIAL ASSISTANCE.*—To the extent permitted by
14 law, the head of each Federal agency shall seek to provide
15 special assistance to an eligible applicant to support imple-
16 mentation of an approved flexibility plan, including expe-
17 dited processing and technical assistance.

18 (c) *EVALUATION AND TERMINATION.*—

19 (1) *REPORTS AND EVALUATIONS BY APPROVED*
20 *APPLICANTS, GENERALLY.*—An approved applicant,
21 in accordance with guidance issued by the Board,
22 shall—

23 (A) submit any reports on and cooperate in
24 any audits of the implementation of its approved
25 flexibility plan; and

1 (B) periodically evaluate the effect imple-
2 mentation of the plan has had on—

3 (i) individuals who receive benefits
4 under the plan;

5 (ii) communities in which those indi-
6 viduals live; and

7 (iii) costs of administering and provid-
8 ing assistance under eligible Federal finan-
9 cial assistance programs included in the
10 plan.

11 (2) *INITIAL 1-YEAR REPORT.*—No later than 90
12 days after the end of the 1-year period beginning on
13 the date of the approval by the Board of an approved
14 flexibility plan of a State, local, or tribal government,
15 and annually thereafter, the approved applicant, re-
16 spectively, shall submit to the Board a report on the
17 principal activities, achievements, and failures under
18 the plan during the period covered by the report, com-
19 paring those achievements and failures to the goals
20 and performance criteria included in the plan under
21 section 6(c)(3).

22 (3) *TERMINATION OF PLAN BY BOARD.*—

23 (A) *IN GENERAL.*—The Board shall termi-
24 nate the effectiveness of an approved flexibility
25 plan, if, after consultation with the head of each

1 *Federal agency responsible for administering an*
2 *eligible Federal financial assistance program in-*
3 *cluded in the plan, the Board determines that—*

4 *(i) the goals and performance criteria*
5 *included in the plan under section 6(c)(3)*
6 *have not been met, and are not likely to be*
7 *met, and those goals and criteria are sound;*

8 *(ii) the goals and performance criteria*
9 *included in the plan under section 6(c)(3)*
10 *are not sound, and the plan would not meet*
11 *goals and criteria that are sound;*

12 *(iii) the approved applicant respon-*
13 *sible for the plan is unable to meet its com-*
14 *mitments under this Act; or*

15 *(iv) audit or oversight activities deter-*
16 *mine there has been fraud or abuse involv-*
17 *ing Federal funds under the plan.*

18 *(B) TRANSITION PERIOD.—In terminating*
19 *an approved flexibility plan under this para-*
20 *graph, the Board shall allow a reasonable period*
21 *of time for appropriate Federal agencies and eli-*
22 *gible applicants to resume administration of*
23 *Federal programs that are eligible Federal finan-*
24 *cial assistance programs included in the plan.*

1 (4) *REVOCATION OF WAIVER AUTHORIZED.*—The
2 Board may revoke a waiver under section 7(f) if the
3 State, local, or tribal government fails to—

4 (A) *comply with the requirements of the*
5 *plan;*

6 (B) *make acceptable progress towards*
7 *achieving the goals and performance criteria set*
8 *forth in the plan; or*

9 (C) *use funds in accordance with the plan.*

10 (5) *REVOCATION OF WAIVER REQUIRED.*—The af-
11 fected Federal agency shall revoke all waivers issued
12 under section 7(f) for a flexibility plan if the Board
13 terminates the plan.

14 (6) *EXPLANATION OF REVOCATION REQUIRED.*—
15 In the case of revocation of a plan or a waiver, the
16 Board shall provide for the former eligible applicant
17 a written justification of the reasons for revocation.

18 (d) *FINAL REPORT.*—No later than 45 days after the
19 end of the effective period of an approved flexibility plan,
20 the approved applicant shall submit to the Board a final
21 report on its implementation of the plan, including a full
22 evaluation of the successes and shortcomings of the plan and
23 the effects of that implementation on individuals who re-
24 ceive benefits under the eligible Federal financial assistance
25 programs under the plan.

1 (e) *AVAILABILITY OF WAIVER AUTHORITY WITH RE-*
2 *SPECT TO GRANT AGREEMENTS.*—*The authority provided*
3 *under this Act to waive provisions of grant agreements may*
4 *be exercised only as long as the funds provided for the grant*
5 *program in question are available for obligation by the Fed-*
6 *eral Government.*

7 **SEC. 9. TECHNICAL AND OTHER ASSISTANCE.**

8 (a) *TECHNICAL ASSISTANCE.*—*The Board may pro-*
9 *vide, or direct that the head of a Federal agency provide,*
10 *technical assistance to an eligible applicant in developing*
11 *information necessary for the design or implementation of*
12 *a flexibility plan, if the eligible applicant submits a request*
13 *that includes, in accordance with requirements established*
14 *by the Board—*

15 (1) *a description of the flexibility plan the eligi-*
16 *ble applicant proposes to develop;*

17 (2) *a description of the groups of individuals to*
18 *whom benefits will be provided under eligible Federal*
19 *financial assistance programs included in the plan;*
20 *and*

21 (3) *such assurances as the Board may require*
22 *that—*

23 (A) *in the development of the application to*
24 *be submitted under this Act for approval of the*

1 *plan, the eligible applicant will provide adequate*
2 *opportunities to participate to—*

3 *(i) individuals and families that will*
4 *receive benefits under eligible Federal finan-*
5 *cial assistance programs included in the*
6 *plan; and*

7 *(ii) governmental agencies that admin-*
8 *ister those programs; and*

9 *(B) the plan will be developed after consid-*
10 *ering fully—*

11 *(i) the needs expressed by those indi-*
12 *viduals and families;*

13 *(ii) community priorities; and*

14 *(iii) available governmental resources*
15 *in the geographic area to which the plan*
16 *shall apply.*

17 *(b) SPECIAL ASSISTANCE TO SMALL GOVERNMENTS.—*

18 *To the extent permitted by law, the Board may provide or*
19 *direct a Federal agency head to provide special assistance*
20 *to interested small governments to support development and*
21 *implementation of a flexibility plan which may include ex-*
22 *pedited processing, and technical assistance.*

23 *(c) DETAILS AND ASSIGNMENTS TO BOARD.—At the*
24 *request of the Board and with the approval of a Federal*
25 *agency head who is a member of the Board, staff of the*

1 *agency may be detailed or assigned to the Board on a non-*
2 *reimbursable basis.*

3 (d) *INTERAGENCY FINANCING.*—*Notwithstanding any*
4 *other law, interagency financing is authorized to carry out*
5 *the purposes of this Act.*

6 **SEC. 10. REPORTS BY BOARD; DIRECTOR.**

7 (a) *REPORT BY BOARD.*—*No later than 18 months*
8 *after the date of the enactment of this Act, and annually*
9 *thereafter, the Board shall submit a report to the President*
10 *and the Congress on the Federal laws or regulations that*
11 *are most frequently waived under section 7(f) with respect*
12 *to approved flexibility plans. The President shall review the*
13 *report and determine to amend or terminate such Federal*
14 *requirements.*

15 (b) *REPORT BY DIRECTOR.*—*No less than 60 days after*
16 *repeal of this Act, the Director shall report on its progress*
17 *in achieving the responsibilities of section 5(d).*

18 (c) *FINAL REPORT.*—*No later than 54 months after*
19 *the date of enactment of this Act, the Board, in consultation*
20 *with the Director and Federal agencies, shall submit a re-*
21 *port to Congress and the President that—*

22 (1) *describes the extent to which State, local, and*
23 *tribal governments have established and implemented*
24 *approved flexibility plans;*

1 *tions which stipulates that if any bid, grant applica-*
2 *tion, or other document required to be filed within a*
3 *prescribed period or on or before a prescribed date is,*
4 *after such period or such date, delivered by United*
5 *States mail to the agency, officer, or office with which*
6 *such bid, grant application, or other document is re-*
7 *quired to be made, the date of the United States post-*
8 *mark stamped on the cover in which such bid, grant*
9 *application, or other document is mailed shall be*
10 *deemed to be the date of delivery, as the case may be.*

11 (2) *MAILING REQUIREMENTS.—This subsection*
12 *applies only if—*

13 (A) *the postmark date falls within the pre-*
14 *scribed period or on or before the prescribed date*
15 *for the filing (including any extension granted*
16 *for such filing) of the bid, grant application, or*
17 *other document; and*

18 (B) *the bid, grant application, or other doc-*
19 *ument was, within the time prescribed in sub-*
20 *paragraph (A), deposited in the mail in the*
21 *United States in an envelope or other appro-*
22 *priate wrapper, postage prepaid, properly ad-*
23 *dressed to the agency, officer, or office with*
24 *which the bid, grant application, or other docu-*
25 *ment is required to be made.*

1 (b) *POSTMARKS.*—*This section shall apply in the case*
2 *of postmarks not made by the United States Postal Service*
3 *only if and to the extent provided by the regulations pre-*
4 *scribed by Federal agencies.*

5 (c) *REGISTERED AND CERTIFIED MAILING.*—

6 (1) *REGISTERED MAIL.*—*For purposes of this*
7 *section, if any such bid, grant application, or other*
8 *document is sent by United States registered mail—*

9 (A) *such registration shall be prima facie*
10 *evidence that the bid, grant application, or other*
11 *document was delivered to the agency, officer, or*
12 *office to which addressed; and*

13 (B) *the date of registration shall be deemed*
14 *the postmark date.*

15 (2) *CERTIFIED MAIL.*—*Federal agencies are au-*
16 *thorized to provide by regulations the extent to which*
17 *the provisions of paragraph (1) of this subsection*
18 *with respect to prima facie evidence of delivery and*
19 *the postmark date shall apply to certified mail.*

20 (d) *EFFECTIVE DATE.*—*This section shall take effect*
21 *on the date of the enactment of this Act and shall remain*
22 *in effect notwithstanding section 11 of this Act.*

23 Amend the title so as to read: “A bill to increase the
24 overall economy and efficiency of Government operations
25 and enable more efficient use of Federal funding, by ena-

1 bling State, local, and tribal governments and private,
2 nonprofit organizations to use amounts available under
3 certain Federal assistance programs in accordance with
4 approved local flexibility plans.”.