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ACTION ON AGING LEGISLATION
IN THE 96TH CONGRESS

AN INFORMATION PAPER

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PREFACE

The 96th Congress enacted a number of legislative measures providing aid to the elderly in the areas of income maintenance, health, social services, civil rights, housing, transportation, and taxation. Measures having the most significant impact on the largest number of elderly, nationwide, include food stamp benefits, low-income energy assistance, and medicare benefits.

A number of changes were affected under the Food Stamp Act Amendments of 1979 and 1980 (Public Law 96-58 and Public Law 96-249, respectively), including increased authorization levels, changes in eligibility requirements, and cost-of-living adjustment benefits, and an increase in medical deductions allowable in determining benefits. Provisions in the fiscal year 1980 appropriations bill (Public Law 96-126) and the Home Energy Assistance Act (Public Law 96-223) established cash benefits to the low-income elderly to help defray the high costs of home heating. Under the Omnibus Reconciliation Act of 1980, medicare benefits were expanded, including coverage for certain home health care services.

The Congressional Research Service, on behalf of the U.S. Senate Special Committee on Aging, has prepared the following information paper summarizing the major legislation introduced in the 96th Congress which affects the elderly. Programs which have an impact on the elderly are included in this legislative summary, which is intended to provide valuable information for the elderly, practitioners in the field of aging, policymakers, and others concerned with the quality of life of our Nation's older Americans.

JOHN HEINZ, *Chairman.*

CONTENTS

	Page
Preface.....	III
Introduction.....	1
I. Income maintenance:	
Old-age, survivors, and disability insurance (social security):	
Social security retirement test.....	1
Programs for the disabled.....	2
Tax-free status of social security benefits.....	3
Reallocation of social security taxes between OASI and DI trust funds—Public Law 96-403.....	3
Omnibus Reconciliation Act of 1980—Public Law 96-499.....	3
Supplemental security income (SSI):	
Disposal of resources—Public Law 96-611.....	3
Social welfare reform amendments.....	4
Private pension plans:	
Multiemployer pension plan amendments—Public Law 96-364.....	4
Changes to pension offset in unemployment insurance...	5
Cost-of-living adjustments.....	5
Civil service retirement:	
Cost-of-living adjustments—Public Law 96-499.....	6
Postretirement life insurance—Public Law 96-427...	6
Surviving spouse benefits: Notification—Public Law 96-391.....	6
Food stamps:	
The Food Stamp Act Amendments of 1979—Public Law 96-58.....	6
The Food Stamp Act Amendments of 1980—Public Law 96-249.....	7
Low-income energy assistance:	
Fiscal year 1980 Interior Department appropria- tions—Public Law 96-126.....	8
Home Energy Assistance Act—Public Law 96-223...	8
Veterans disability compensation—Public Law 96-385...	9
II. Health:	
Medicare and medicaid.....	9
National health insurance.....	10
Catastrophic health insurance.....	11
The Mental Health Systems Act—Public Law 96-398.....	11
Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment and Rehabilitation Act Amendments—Public Law 96-180.....	12
Veterans geriatric research and care—Public Law 96-330...	12
III. Social services:	
Long-term care.....	12
Elderly abuse:	
Prevention, Identification, and Treatment of Adult Abuse Act of 1980—H.R. 7551.....	14
Domestic Violence Prevention and Services Act—H.R. 2977.....	14
Social services for low-income persons (title XX)—Public Law 96-272.....	14
Education Amendments of 1980—Public Law 96-374.....	15
Legal Services Corporation extension—Public Law 96-536...	15

VI

IV. Civil rights related:		
	Civil Rights of Institutionalized Persons Act—Public Law 96-247-----	Page 15
	Study regarding age limits for airline pilots—Public Law 96-171-----	16
	Foreign Service Act of 1980—Public Law 96-465-----	16
V. Housing:		
	Housing and Community Development Amendments of 1979—Public Law 96-153-----	16
	Housing and Urban Development Appropriations for Fiscal Year 1980—Public Law 96-103-----	16
	Housing and Urban Development Appropriations for Fiscal Year 1981—Public Law 96-526-----	17
VI. Transportation:		
	Reduced railway fares—Public Law 96-73-----	17
VII. Taxation:		
	Rate of interest on U.S. retirement bonds—Public Law 96-595-----	17
	Extension of deduction for removal of architectural barriers—Public Law 96-167-----	17

ACTION ON AGING LEGISLATION IN THE 96TH CONGRESS

AN INFORMATION PAPER

INTRODUCTION

This report describes selected legislation in the 96th Congress of interest to the elderly. Not all such legislation is included due to the large number of bills relating to the elderly, some of which affect only a small number of elderly and others do not affect the elderly with any greater difference than the other age groups. Legislation selected is also limited to that which received significant action or attention by Congress.

This report is organized by major program or issue areas, i.e., income maintenance, health, social services, civil rights-related, housing, transportation, and taxation. It is organized differently within these sections—by program, by issue, or by legislation, depending on which is most informative. The table of contents will identify the individual public laws and pending bills described.

Among the legislation which impacts most on the largest number of elderly are the following:

- Food stamps.* Recent laws have increased the authorizations for the program, changed the cost-of-living adjustments in benefits from semiannual to annual, allowed higher medical deductions in determining the amount of the benefit, and changed eligibility requirements (Public Law 96-58 and Public Law 96-249).
- Low-income energy assistance.* Recent laws provide cash benefits to low-income elderly to help offset home heating costs (Public Law 96-126 and Public Law 96-223).
- Medicare liberalizations.* The Omnibus Reconciliation Act of 1980 liberalizes certain medicare benefits including home health benefits (Public Law 96-499).

The report was authored by several Education and Public Welfare Division analysts including those in the income maintenance section, the health section, the social services section, and the education section. The overall report was coordinated by Sharon House. Secretarial production assistance was provided by Linda Smith and Carlotta Davis.

I. INCOME MAINTENANCE

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (SOCIAL SECURITY)

SOCIAL SECURITY RETIREMENT TEST

Social security beneficiaries under age 72 have their benefits reduced when their earnings exceed certain limits. This is the so-called retirement test of the social security system established by the Social

Security Act. Under the law in effect prior to 1978, a beneficiary was paid his benefit for any month in which he did not earn more than the monthly exempt amount (\$250 a month in 1977) and did not render "substantial services" in self-employment. For example, a beneficiary who earned \$10,000 in the first 3 months of the year might not receive a benefit for those months (because his earnings exceeded the exempt amount), but the beneficiary would receive a benefit for the remaining 9 months when he had no earnings. This monthly measure of retirement was eliminated, for years after the first-year benefits are received, by Congress in the 1977 Social Security Amendments. The change was effective for all beneficiaries on the benefit rolls as well as for new beneficiaries.

Public Law 96-473 prevents, in calculating the deduction from an individual's benefits because of work, the charging of excess earnings to any month in which an individual did not engage in self-employment and did not render services for wages of more than the applicable exempt amount as determined under the Social Security Act. The law also makes medicare hospital insurance benefits available to individuals who are entitled to social security benefits but who have not applied for such benefits by providing separate applications for the two types of benefits. In addition, the law disregards, after December 1977, for purposes of computing the amount of social security benefits, any income attributable to services performed before becoming eligible for social security.

Status: Introduced as H.R. 5295. Enacted October 19, 1980.

PROGRAMS FOR THE DISABLED

There are two programs authorized by the Social Security Act and administered by the Social Security Administration which pay cash benefits to persons judged to have severe and long-term disabilities that prevent them from working. These are the disability insurance (DI) program and the supplemental security income (SSI) program. Disability insurance is for disabled persons who have a work history sufficient to be insured by the social security program; SSI is for similarly disabled persons who have low incomes and resources. Some SSI recipients might also receive a disability insurance benefit.

Public Law 96-265, the Social Security Disability Amendments of 1980, change the DI program in three major areas:

- By placing a cap on the benefit amount to insure that no one will receive more in benefits than he or she had previously been earning.
- By improving the incentives for work so that those on the disability insurance rolls would be encouraged to work if at all possible; and
- By improving the administration of the program by requiring more reviews of applications and by streamlining the appeals process.

The Social Security Administration has estimated that the provisions in Public Law 96-265 will reduce old-age, survivors, and disability insurance trust fund expenditures by increasing amounts, rising to \$1.1 billion in 1984.

Provisions of the law also include a 3-year demonstration program giving continued SSI cash benefits plus medicaid and social services

to disabled SSI recipients with earnings above the "substantial gainful activity" level (currently \$300 monthly) but who can meet the regular income test applicable to aged SSI recipients.

Status: Introduced as H.R. 3236. Enacted June 9, 1980.

TAX-FREE STATUS OF SOCIAL SECURITY BENEFITS

At the present time, social security benefits are totally exempt from Federal income taxes. The Social Security Advisory Council has made a recommendation to change this tax treatment so as to include one-half of the amount of social security benefits in an individual's taxable income.

Both Houses of Congress have subsequently passed resolutions maintaining that they would not enact legislation that would change the tax treatment of social security benefits. House Concurrent Resolution 351 was approved almost unanimously (384-1) on July 21, 1980. Senate Resolution 432 was approved by a voice vote on August 4, 1980.

REALLOCATION OF SOCIAL SECURITY TAXES BETWEEN OASI AND DI TRUST FUNDS—PUBLIC LAW 96-403

This law shifted revenues from the disability insurance trust fund to the old-age and survivors trust fund during 1980 and 1981 so that adequate reserves could be maintained in both funds at least through the end of calendar year 1981.

Status: Introduced as H.R. 7670. Enacted October 9, 1980.

OMNIBUS RECONCILIATION ACT OF 1980—PUBLIC LAW 96-499

Among its many provisions, this lengthy bill (H.R. 7765) contained two amendments to the social security law. One provision limited the retroactivity of benefit applications for retired workers and their dependents and survivors to 6 months (from 12 months). The other provided that the payment by an employer of an employee's social security taxes would no longer be excluded from covered wages, but would be counted as wages both for purposes of the payroll tax and in determining the amount of earnings credited to the employee's social security earnings record.

Status: Introduced as H.R. 7765. Enacted December 5, 1980.

SUPPLEMENTAL SECURITY INCOME (SSI)

DISPOSAL OF RESOURCES—PUBLIC LAW 96-611

This law includes a provision that bars SSI eligibility for a period of time for a person who disposes of assets for less than their fair market value. The law provides that no person shall be eligible for SSI benefits if he disposes of resources for less than current market value if retaining such resources would have made him ineligible for benefits. The individual could be ineligible for benefits for up to 2 years if the difference between the sale price of the asset and the seller's equity interest in the asset exceeds \$3,000.

Status: Introduced as H.R. 8406. Enacted December 28, 1980.

SOCIAL WELFARE REFORM AMENDMENTS

The proposed Social Welfare Reform Amendments of 1979 (H.R. 4321 and H.R. 4904) would have provided a food stamp cash out for SSI recipients who live alone or with other SSI recipients. The bills would have also liberalized treatment of SSI recipients who live alone or with other SSI recipients. The bills would have liberalized treatment of SSI recipients who live in another person's household. (Current law requires a one-third benefit cut for recipients who live in the household of another and receive support and maintenance from that person.)

Status: Introduced as H.R. 4321, and referred to four committees: Agriculture, Interstate and Foreign Commerce, Judiciary, and Ways and Means. On July 23, 1979, clean bill H.R. 4904 was forwarded to the Committee on Ways and Means in lieu of H.R. 4321.

Status: Introduced as H.R. 4904, and referred to the Committee on Ways and Means. Reported to the House and referred to the House Committee on Agriculture. Passed House November 7, 1979. Received in the Senate and referred to the Committee on Finance November 9, 1979.

Also see Public Law 96-265 (H.R. 3236) pertaining to disability insurance for SSI recipients under social security programs for the disabled.

PRIVATE PENSION PLANS

MULTIEMPLOYER PENSION PLAN AMENDMENTS—PUBLIC LAW 96-364

In 1974, Congress enacted the Employee Retirement Income Security Act (ERISA). Title IV of the act established the Pension Benefit Guaranty Corporation (PBGC) to guarantee the payment of vested pension benefits. The pension plan insurance program was established to protect workers and retirees against the loss of benefits when a plan is terminated with insufficient assets to pay benefits earned. Participants in single employer plans have been protected since July 1, 1974. However, the effective date of the mandatory coverage of multiemployer pension plans—plans that cover the employees of two or more unaffiliated employers and are maintained under one or more collective bargaining agreements—was deferred several times. Congress subsequently passed the Multiemployer Pension Plan Amendments Bill of 1980 (H.R. 3904) which was signed into law on September 26, 1980 (Public Law 96-364).

In brief, the legislation makes the following major changes in the termination insurance program for multiemployer plans:

- Changes the insurable event from the termination of a plan to insolvency. PBGC is required to provide financial assistance to insolvent multiemployer plans (whether or not terminated) where the assistance is needed to enable the plans to pay basic benefits.
- Places certain financially troubled plans in a status of "reorganization." Once a plan enters reorganization, a minimum contribution requirement, which usually requires an increase in employer contributions, applies to the plan. The minimum contribution requirement is phased in to protect employers against very large increases in contributions for a plan year. In the case of a plan

- considered overburdened because it has a high proportion of retirees, the additional funding required under the minimum contribution requirement is reduced by an overburden credit.
- Insures full coverage of the pension benefits of individuals who now receive pensions and those who are within 3 years of retirement. In other cases, the PBGC will guarantee 100 percent of the first \$5 of monthly benefits earned per year of service plus 75 percent of the next \$15 of monthly benefits per year of service. The 75-percent guarantee is reduced to 65 percent under plans that do not meet specified funding requirements.
 - Provides that the annual per-participant premium for multi-employer plans is to increase from the present \$0.50 to \$2.60 over a 9-year period to assure that the PBGC will have sufficient assets to pay benefits up to the guarantee level for those plans that do become insolvent.
 - Institutes liability for employers who withdraw from plans that have unfunded vested liabilities. A withdrawing employer's liability is its fair share of the plan's total unfunded vested liability and is to be paid back to the plan in annual installments for a period not exceeding 20 years.

Status: Introduced as H.R. 3904. Enacted September 26, 1980.

CHANGES TO PENSION OFFSET IN UNEMPLOYMENT INSURANCE

During the 1973-75 recession, Congress received reports of unemployment insurance (UI) program abuse, including reports that some retired workers were receiving UI even though they had dropped out of the labor force. In response to these reports, the 94th Congress amended section 3304(a) of the IRS Code to require that, after April 1, 1980, State UI laws provide for the deduction of prorated weekly retirement benefits based on previous work from weekly UI benefits. Opposition to this change was voiced by military retirees who worked after early retirement, as well as other workers who were also receiving pensions from social security, OASI, and railroad retirement.

Status: During the 96th Congress, both the House and Senate passed separate bills modifying this law by permitting States to exclude some pension benefits from UI-offsetting income. The Multi-Employer Pension Plan Amendments Bill of 1980, signed into law on September 26, 1980 (Public Law 96-364) included an amendment modifying the earlier law which, in effect, excludes pensions of military retirees who had subsequently worked after early retirement from the UI pension offset. Public Law 96-364 did not resolve the issue for labor force participants who are receiving some OASI or railroad retirement pensions, however. In most cases, at least half their benefits will still offset weekly UI benefits.

COST-OF-LIVING ADJUSTMENTS

The ERISA Improvements Act of 1979, S. 209, would have directed the Secretary of Labor to study the feasibility of requiring pension plans to provide cost-of-living adjustments to benefits payable under such plans.

Status: Introduced as S. 209, referred to the Committees on Finance and Labor and Human Resources. The Committee on Labor and Human Resources ordered this legislation to be favorably reported on May 16, 1979.

CIVIL SERVICE RETIREMENT

COST-OF-LIVING ADJUSTMENTS—PUBLIC LAW 96-499

Public Law 96-499 changed the procedure by which newly entitled annuities are affected by cost-of-living adjustments (COLA). Prior to Public Law 96-499, annuities, at retirement, were calculated both as to salary and service at retirement, and salary and service on the day prior to the previous adjustment, plus that adjustment. Retirees received the greater of the two calculations. As a result of the change, retirees will no longer have annuities adjustable by a "lookback" to a COLA prior to retirement, and will have the first COLA after retirement prorated for months in annuity status since the last adjustment.

Status: Introduced as H.R. 7765, the Reconciliation Act of 1980. Enacted December 5, 1980.

POSTRETIREMENT LIFE INSURANCE—PUBLIC LAW 96-427

Public Law 96-427 gives retirees the option of maintaining a greater value for their Federal employees group life insurance policies after reaching age 65. Prior to Public Law 96-427, employees were excused from further premiums after retirement, but upon reaching age 65, the value of the policy depreciated by 2 percent per month until only 25 percent of the original policy value remained. Under the new provisions, after January 1, 1990, new retirees will be required to pay life insurance premiums until they reach age 65. As of the effective date (December 9, 1980), new retirees will be able to pay a premium rate (not yet established) beyond age 65, and thus maintain full value of the policy, or under other options, some lesser rate for a corresponding lesser amount of value retention.

Status: Introduced as H.R. 7666. Enacted October 10, 1980.

SURVIVING SPOUSE BENEFITS: NOTIFICATION—PUBLIC LAW 96-391

As a result of Public Law 96-391, if a retiring employee chooses not to elect surviving spouse benefits the spouse will be so notified. Prior to the law, a retiree could choose not to exercise the option to provide survivor's benefits without the affected spouse's knowledge.

Status: Introduced as H.R. 5410. Enacted October 7, 1980.

FOOD STAMPS

THE FOOD STAMP ACT AMENDMENTS OF 1979—PUBLIC LAW 96-58

The 1979 Food Stamp Act Amendments increased the authorized appropriations for the program and made several substantial changes in food stamp rules affecting the elderly and the disabled.

Authorized appropriations for fiscal year 1979 were increased from \$6.2 to \$6.9 billion, thereby allowing the appropriation of sufficient

funds to avoid benefit reductions that could have been as large as 30 percent.

Program rules were changed to increase benefits to elderly and to disabled recipients who have substantial medical expenses or very high shelter costs. Elderly households and disabled households are to be allowed to "deduct" medical expenses from their income before it is counted for food stamp purposes, thus reducing the amount of income counted and increasing benefits for these households by approximately 30 cents for every dollar of medical expenses claimed. Under the new rules, elderly and disabled recipients may deduct all medical expenses above \$35 a month. In addition, households with elderly or disabled members are allowed to claim deductions (and thereby reduce countable income) for excessively high shelter expenses without limit. Other households are subject to a \$90-a-month limit on the amount they may deduct for shelter expenses.

Another rule change made by the 1979 amendments requires that disabled residents of small group homes be allowed eligibility for food stamps. Under previous rules, these residents had often been classified as residents of "institutions" and thereby made ineligible.

Status: Introduced as H.R. 4057. Enacted August 14, 1979.

THE FOOD STAMP ACT AMENDMENTS OF 1980—PUBLIC LAW 96-249

The 1980 Food Stamp Act Amendments again increased the authorized appropriations for the program. In addition, they reduced future increases in benefits and eligibility standards and made a number of changes in rules affecting the elderly and the disabled.

Authorized appropriations for fiscal years 1980 and 1981 were increased from \$6.2 billion a year to \$9.5 and \$9.7 billion respectively, thereby allowing an appropriation of sufficient funds to avoid closing down the program in June 1980, for lack of funds.

Future benefit increases have been reduced by requiring that benefits be updated annually (each January) for food-price inflation, rather than semiannually (each January and July). This has eliminated the scheduled July 1980, benefit increases and made the next increases effective January 1981. In addition, all other inflation updates in program eligibility and benefit determination standards have been made annual (rather than semiannual), with most occurring each January. Future increases in income eligibility standards have been reduced by removing a special inflation updating procedure in the Food Stamp Act, thereby making the food stamp income eligibility standards conform to the official "poverty levels" used in other Federal programs. The net effect of reducing future increases in eligibility standards is expected to be the denial of food stamp benefits to some 650,000 people who would have become eligible in 1980/1981.

Other rule changes affecting the elderly and the disabled made in the 1980 amendments include: (1) Lowering the limit on allowable liquid assets to \$1,500 (from \$1,750) for all nonelderly households and single-person elderly households;¹ (2) excluding any energy assistance payments from being treated as income for food stamp purposes; (3) allowing disabled persons in Puerto Rico, the Virgin Islands, and Guam to claim "deductions" for medical and excessively

¹ The higher \$3,000 assets limit for elderly households of two or more was left untouched.

high shelter expenses; (4) allowing larger medical expense deductions starting in 1982 (medical expenses above \$25 a month will be deductible, rather than those above \$35 a month, and the medical expenses of spouses of elderly or disabled recipients will be deductible); ² (5) excluding vehicles used to transport the physically handicapped from being counted as an asset; and (6) extending through September 1981, the life of pilot projects under which supplemental security income (SSI) recipients receive their food stamp benefit in cash rather than as stamps.

Status: Introduced as S. 1309. Enacted May 26, 1980.

LOW-INCOME ENERGY ASSISTANCE

FISCAL YEAR 1980 INTERIOR DEPARTMENT APPROPRIATIONS—PUBLIC LAW 96-126

In addition to providing the regular 1980 Interior Department appropriations, this law provided \$1.35 billion in funding for energy assistance to low-income households. When coupled with \$250 million appropriated earlier, a total of \$1.6 billion was made available for energy assistance during the 1979/1980 heating season.

The 1979/1980 energy assistance effort was divided into three programs. Some \$400 million was distributed by the Social Security Administration to most supplemental security income (SSI) recipients, in the form of checks ranging from \$34 to \$250 per recipient. An additional \$800 million was distributed in block grants to States and was used primarily to assist welfare recipients (recipients of aid to families with dependent children and general assistance). The remaining \$400 million was distributed—as the energy crisis assistance program (ECAP)—by the Community Services Administration (through States) to local community action agencies where it was used to assist nonwelfare low-income households and those (including the elderly with incomes up to 150 percent of the poverty level) who faced critical problems in meeting home heating costs.

Status: H.R. 4930 reported by the House Committee on Appropriations. Enacted November 27, 1979.

HOME ENERGY ASSISTANCE ACT—PUBLIC LAW 96-223

The Crude Oil Windfall Profit Tax Act includes provisions establishing a program of energy aid to low-income households during the 1980/1981 heating season. Title III of this act, the Home Energy Assistance Act, authorizes a 1-year program whose appropriations may be up to \$3.1 billion. (\$1.85 billion was actually appropriated for fiscal year 1981.)

Under the Home Energy Assistance Act, block grants of funding are to be distributed to States to finance State-designed programs of energy assistance to low-income households. Assistance is to be primarily for high heating expenses, although aid for cooling costs is allowed where medically necessary. States are to design their programs under very general Federal guidelines: (1) Eligibility is to include all recipients of cash welfare aid (aid to families with depend-

² In the Reagan administration's 1982 budget, the allowance for larger medical deductions is proposed for repeal; thus, leaving the deduction at the current level of \$35.

ent children and supplemental security income), recipients of food stamps, and recipients of needs-tested veterans assistance (most veterans pensions); (2) eligibility may also extend to households with incomes up to the Bureau of Labor Statistics "lower living standard budget," as adjusted for household size and place of residence (averaging about \$12,600 for a family of four persons); (3) priority is required for households with the lowest income and to eligible households having at least one elderly or handicapped individual; (4) aid is to vary so that greater assistance is provided to those with higher home energy costs in relation to their income; and (5) assistance may be provided directly to eligible households or on their behalf through their energy suppliers. States may request that the Social Security Administration issue benefits to recipients of supplemental security income in the form of standardized checks. Up to \$100 million in aid is to be administered by the Community Services Administration through community action agencies in order to provide energy-crisis assistance (\$87.5 million was actually appropriated for ECAP for fiscal year 1981).

Status: Introduced as H.R. 3919. Enacted April 2, 1980.

VETERANS DISABILITY COMPENSATION—PUBLIC LAW 96-385

The Veterans Disability Compensation and Housing Benefits Act of 1980, among other things, provides a 13-percent increase in the compensation rates payable to veterans with a service-connected disability rates less than 50 percent and a 14.3-percent increase for veterans rated 50 percent or more service-connected disabled. (The monthly compensation rate for those rated 100 percent disabled was increased from \$889 to \$1,016 effective October 1, 1980.) Over one-half of all veterans receiving compensation are from World War II or earlier eras.

Status: Introduced as H.R. 7511. Enacted October 7, 1980.

II. HEALTH

MEDICARE AND MEDICAID

Medicare is a nationwide Federal health insurance program for the aged and certain disabled persons. Medicare part A is a hospital insurance program; part B is a supplementary medical insurance program which covers specific out-of-hospital costs.

Medicaid is a federally aided, State-operated and administered program for certain categories of low-income persons. The States establish, subject to Federal guidelines, eligibility requirements and the scope of benefits to be provided. As a result the program varies considerably from State to State.

Rising costs and the need for administrative reforms in medicare and medicaid were two major concerns addressed by the 96th Congress. The main focus of legislative attention was on two House bills (H.R. 3990, the Medicare Amendments of 1979; and H.R. 4000, the Medicare and Medicaid Amendments of 1980); and one bill reported by the Senate Finance Committee (H.R. 934, the Medicare and Medicaid Administrative and Reimbursement Reform Act of 1979). A number of provisions in these measures were later incorporated

into title IX of the Omnibus Reconciliation Act of 1980 (Public Law 96-499), which was signed into law on December 5, 1980. The provisions of interest to the elderly include liberalization of medicare home health benefits (by deleting the number of visit limitations, removing the prior hospitalization requirements for part A services, and exempting part B from the deductible), coverage of services in comprehensive outpatient rehabilitation facilities, and coverage of specified services in ambulatory surgical centers. The act also included a number of provisions designed to improve program operations.³

In addition, the Social Security Disability Amendments of 1980, signed into law June 9, 1980, as Public Law 96-265 (H.R. 3236), contain a provision intended to help resolve the problem of abuses in the sale of private insurance policies that supplement medicare ("medi-gap" policies). The provision requires the Department of Health and Human Services (DHHS) to establish, by July 1, 1982, a voluntary program for private insurers in which DHHS would certify those policies (offered by participating insurers) that meet certain minimum standards. It also requires the DHHS Secretary to study "medi-gap" issues and to make information about "medi-gap" insurance policies available to those entitled to medicare. Finally, the provision provides for increased penalties for insurers who misrepresent their policies.

Public Law 96-611 (H.R. 8406), signed into law on December 28, 1980, provides medicare coverage for pneumococcal vaccines.⁴ The law also permits States to impose transfer of assets restrictions in determining medicaid eligibility.

NATIONAL HEALTH INSURANCE

National health insurance (NHI) is the generic term for legislative proposals that focus on ways to provide the entire population, including the aged, with health care services. More than a dozen national health insurance bills, introduced in the 96th Congress, took a variety of approaches to the problem of health care financing and delivery. Some of those proposals of interest to the elderly included a federally financed and administered health insurance program for the entire population (H.R. 21); the establishment of an independent Federal agency to deliver health care throughout the United States (H.R. 2969); programs to provide all Americans, including the elderly, with protection against the costs of catastrophic illness (H.R. 6405, S. 350, S. 748, and S. 760); and an option for medicare beneficiaries to receive a Government-offered health plan contribution instead of medicare benefits (H.R. 7527).

Two major NHI bills introduced in the 96th Congress were S. 1720/H.R. 5191, the Health Care For All Americans Act, and S. 1812/H.R. 5400, the National Health Plan Act.

S. 1720/H.R. 5191 would have continued the present medicare program, amending it to conform to services proposed for the rest of the population. S. 1812/H.R. 5400, introduced on behalf of the Carter administration, would have created a new health care program which would have incorporated the current medicare system with certain

³ The 1982 administration budget proposes repeal of a number of the home health liberalizations and outpatient rehabilitation service coverage.

⁴ This provision has also been proposed for repeal.

amendments. Among health care benefits proposed in both bills, the following would have been covered services (to varying degrees) of interest to the aged: Inpatient hospital services, skilled nursing care services, mental health services (inpatient and outpatient), home health services, diagnostic services (laboratory and X-ray), immunizations, and medical equipment and prosthetic devices. In addition, S. 1720/H.R. 5191 would have covered, for those eligible under medicare, certain outpatient prescription drugs from an approved list.

Hearings on both bills were conducted by the Subcommittee on Health and Environment of the House Committee on Interstate and Foreign Commerce, and by the House Ways and Means Committee's Subcommittee on Health.

CATASTROPHIC HEALTH INSURANCE

More than a dozen bills were introduced in the 96th Congress which offered a catastrophic health insurance feature. These provisions, in general, were designed to protect insured persons against large and unpredictable health care expenses which many existing private health insurance plans do not now cover adequately. Most bills focused attention on several issues including: (1) Standards for determining an incurred catastrophic medical expense; (2) covered expenses; (3) program administration; and (4) financing. A number have also included provisions relating specifically to catastrophic expenses incurred by medicare beneficiaries, while others would have provided for expanded medicare benefits (including unlimited hospital and home health coverage and expanded skilled nursing facility and mental benefits).

On June 20, 1979, the Senate Committee on Finance began consideration of catastrophic health insurance legislation. The committee made tentative decisions regarding the elements to be included in the proposed program, but agreement was not reached on several major issues, and a bill was never drafted.

The elements of the proposed program that the committee did approve included some changes in medicare coverage. Under the proposal, the annual total amount of copayments and deductibles that a beneficiary would have to pay under parts A and B of the program would have been limited to \$1,000. After the beneficiary reached that threshold, the program would pay 100 percent of reasonable costs or charges for covered services. In addition, once the individual had met the trigger, medicare would also pay toward the costs of certain drugs (listed in a formulary) needed for the treatment of chronic illnesses.

THE MENTAL HEALTH SYSTEMS ACT—PUBLIC LAW 96-398

The Mental Health Systems Act of 1980 amends and extends the Community Mental Health Centers Act of 1963. The act defines a community mental health center (CMHC) as eligible for funds under the law if it provides "comprehensive mental health services" to the residents in its area. It specifically cites programs of specialized services for the mental health of the elderly as a requirement to meet the definition of "comprehensive."

Title II of the act authorizes \$105 million over 3 years for projects and services for the aged and other priority groups, and requires that at least 30 percent of this funding be earmarked for outreach, assessment, and treatment of the elderly. Each project for the elderly is to include identification of elderly individuals in the area, provide medical diagnosis to distinguish between the need for mental health services and the need for other mental health care, and pay attention to the mental health needs of individuals in nursing homes and intermediate care facilities.

Status: Introduced as S. 1177. Enacted October 7, 1980.

COMPREHENSIVE ALCOHOL ABUSE AND ALCOHOLISM PREVENTION
TREATMENT AND REHABILITATION ACT AMENDMENTS—PUBLIC
LAW 96-180

Public Law 96-180 amends the Uniform Alcoholism and Intoxication Treatment Act and the national alcohol research centers program, and extends the authorizations for these programs through fiscal year 1981. A number of the provisions were designed to focus attention on the needs of underserved populations in general, and the elderly in particular.

The law requires the Director of the National Institute on Alcohol Abuse and Alcoholism to develop programs which focus on the needs of the elderly and other priority groups. It also directs the Secretary of HHS to encourage development of similar programs for State and local government employees.

The law amends the State formula grant program to require that elderly persons be included as representatives to the State advisory councils; that State surveys of need for treatment and prevention services include the elderly; and that State plans include a 3-year plan of action for meeting such identifiable needs.

The project grant program has also been revised to require that preferred consideration be given to applications for programs directed at the treatment and prevention of alcohol abuse by the elderly, among other designated groups.

Status: Introduced as S. 440. Enacted January 2, 1980.

VETERANS GERIATRIC RESEARCH AND CARE—PUBLIC LAW
96-330

Title III of the Veterans Administration Health Care Personnel Act of 1980 authorizes the Veterans Administration (VA) to designate up to 15 of the existing VA health care facilities for geriatric research, education, and clinical services.

Status: Introduced as H.R. 7102. Vetoed August 22, 1980. Veto overridden by House and Senate August 26, 1980

III. SOCIAL SERVICES

LONG-TERM CARE

Two bills to amend the Social Security Act to provide for a program of comprehensive community-based noninstitutional long-term care services for the elderly and the disabled were introduced.

H.R. 6194, the Medicaid Community Care Act of 1980, would have established a State community care plan to be included under a State's current medicaid plan at each State's option. The proposal would have broadened the current medicaid program to encourage the development of more appropriate and available community programs for the elderly and the disabled populations at risk of institutionalization. State requirements in the bill included:

- Provision of a comprehensive assessment of each individual eligible, or applying, for assistance under the plan who may need nursing home care. This assessment would consist of an analysis of all factors (medical, social, environmental, etc.) which would contribute to the individual's need for such care.
- A process for informing the individual of available community-based services which would be an alternative to nursing home care; and
- Provision of the following services: nursing (part-time or intermittent); home health aides; medical supplies, equipment, and appliances for home use; physical and occupational therapy; speech pathology and audiology services; adult day health services; respite care; short-term full-time nursing; homemaker services; and nutrition counseling.

A State would have been allowed a higher Federal matching ratio for the individual assessment and community services, increasing the current medicaid matching ratio by 25 percentage points, or up to 90 percent Federal matching.

Status: H.R. 6194 introduced December 19, 1979, referred to the Committee on Interstate and Foreign Commerce. Hearings held on June 10 and June 23, 1980.

S. 2809 would have added a new title XXI, Noninstitutional Long-Term Care Services for the Elderly and the Disabled, to the Social Security Act and would have combined under one title those noninstitutional long-term care services presently being provided under titles XVIII (medicare), XIX (medicaid), and XX (social services) of the Social Security Act. Persons eligible would have been all persons 65 years and over and persons who were disabled and who qualified for benefits under titles II (social security), XVI (supplemental security income), XVIII (medicare), or XIX (medicaid). The benefit package would have included home health care services, homemaker-home health aide services, adult day services, respite services, and limited tax credit for families caring for a dependent elderly relative. A copayment schedule for services would have been established.

The Governor of each State would have designated a State agency to coordinate the functions of preadmission screening assessment teams (PAT's). The PAT functions would have included evaluation of an individual's need for title XXI services, development of a plan of care, and periodic reassessment of care needs. At least one PAT would have been designated in each unit of general purpose local government. Any of the following could have been designated as a PAT: Professional standards review organization (PSRO), city or county health department, rural health clinic, HMO, hospital discharge unit, or home health agency (in rural areas only).

The proposal would have been financed through a new Federal long-term care trust fund administered by a board of trustees composed

of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health and Human Services.

Before implementation of title XXI, the proposal called for a 3-year demonstration project to be conducted in 10 States on a state-wide basis.

Status: S. 2809 introduced June 11, 1980, referred to the Committee on Finance. Hearings held on August 27, 1980.

ELDERLY ABUSE

PREVENTION, IDENTIFICATION, AND TREATMENT OF ADULT ABUSE ACT OF 1980—H.R. 7551

The bill would have established a National Center on Adult Abuse in the Department of Health and Human Services, to develop and disseminate information and materials, conduct research, and provide technical assistance for the prevention and treatment of adult abuse. The bill also would have authorized: (1) Direct grants to public agencies and private nonprofit organizations, and (2) State grants to qualifying States for projects related to preventing, identifying, and treating adult abuse. In order for States to qualify for Federal funds, they would have been required to provide: Immunity from prosecution for persons reporting instances of adult abuse; prompt investigation of such reports; assurances of cooperation between State agencies, law enforcement officials, and the courts with respect to elderly abuse cases; and assurances that the abused adult will participate in decisions regarding her or his welfare.

Status: H.R. 7551 introduced June 11, 1980, referred to the Committees on Interstate and Foreign Commerce and Education and Labor.

DOMESTIC VIOLENCE PREVENTION AND SERVICES ACT—H.R. 2977

While the major focus of this bill is spouse abuse, "domestic violence" is defined to include elder abuse as well. The bill also includes a separate title directing the Secretary of DHHS to conduct a study of the nature and incidence of elder abuse and to report the findings to Congress, along with recommendations for legislation to address the problem.

Status: Passed both Houses in different forms. House (only) approved conference report October 1, 1980.

SOCIAL SERVICES FOR LOW-INCOME PERSONS (TITLE XX)—PUBLIC LAW 96-272

The Adoption Assistance and Child Welfare Act of 1980 primarily concerns services to children, but it contains a number of provisions of importance to the elderly. Previous law contained a permanent ceiling of \$2.5 billion for funding social services under title XX. The ceiling is now adjusted in accordance with changes in the Consumer Price Index. There is, however, a maximum of \$2.7 billion for fiscal year 1980, \$2.9 billion for fiscal year 1981, \$3 billion for fiscal year 1982, \$3.1 billion for fiscal year 1983, \$3.2 billion for fiscal year 1984, and \$3.3 billion for fiscal year 1985 and after. This law also allows title

XX funds to be used for emergency shelter (for not more than 30 days in any 6-month period) for adults in danger of physical or mental injury, neglect, maltreatment, or exploitation. In addition, the law allows States the option of developing multiyear State plans for the use of title XX funds (instead of the previous requirement for annual State plans). This provision also allows States more flexibility in determining the period (i.e., what fiscal year) on which the plans are based.

Status: Introduced as H.R. 3434. Enacted June 17, 1980.

EDUCATION AMENDMENTS OF 1980—PUBLIC LAW 96-374

Title I amends the Continuing Education Act to require the Commission on National Development in Postsecondary Education to review the availability of education services to adults, including retirees, who do not have access to typical sources of information about educational opportunities. Title I also allows States to use their continuing education grant for continuing education to provide prereirement education for older adults.

Status: Introduced as H.R. 5192. Enacted October 3, 1980.

LEGAL SERVICES CORPORATION EXTENSION—PUBLIC LAW 96-536

The authorization of appropriations for the Legal Services Corporation expired September 30, 1980. S. 2337 which would have extended the program through September 1982 passed the Senate June 13, 1980. H.R. 6386 which would have extended the Corporation through September 1983 was reported to the House, in two parts, May 16 and 28, 1980, but received no further action. The Legal Services Corporation is currently funded, and thereby authorized, under a continuing resolution, Public Law 96-536, which expires June 5, 1981. Among other things, Public Law 96-536 prohibits increasing legal services funds to projects in parts of the country which already have the equivalent of two or more legal services attorneys for every 10,000 potential clients who meet the income eligibility requirements.

IV. CIVIL RIGHTS RELATED

CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT—PUBLIC LAW 96-247

This act authorizes the Attorney General to initiate civil suits in Federal courts to protect the rights of institutionalized persons. Such actions are authorized only if the Attorney General believes that such deprivation of rights is part of a pattern or practice of denial, if the suit is of general public importance, after notice and consultation with State officials, and after all State administrative remedies have been exhausted. The term "institution" means any facility which is owned, operated, or managed by, or provides services on behalf of any State or any subdivision of a State. (A privately owned institution which receives medicare, medicaid, or SSI funds, and/or is licensed by a State, however, would not meet this definition and residents would not come under the law's protections.) The definition of "institution" includes facilities for, among others, persons

who are mentally impaired, chronically ill, or handicapped; and those providing skilled nursing, intermediate or long-term care, or custodial or residential care. The Attorney General is authorized to take civil action when there is reasonable cause to believe that institutionalized persons are being subjected to egregious or flagrant conditions which deprive such persons of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States. A reasonable attorney's fee is authorized for the prevailing party, other than the United States, for suits initiated under this provision.

Status: Introduced as H.R. 10/S. 10. Enacted May 23, 1980.

STUDY REGARDING AGE LIMITS FOR AIRLINE PILOTS—PUBLIC LAW 96-171

This act requires the National Institutes of Health, in consultation with the Secretary of Transportation, to conduct a study to determine, among other things, whether prohibiting persons over 60 years of age from serving as pilots is medically warranted.

Status: Introduced as H.R. 3948. Enacted December 29, 1979.

FOREIGN SERVICE ACT OF 1980—PUBLIC LAW 96-465

Two provisions in this law are of particular interest to those concerned with rights of elderly workers and elderly women. The law raises the mandatory retirement age for most foreign service employees from 60 to 65. With regard to retirement benefits, the law makes certain former spouses automatically eligible for benefits. It requires the Secretary of State to inform spouses and former spouses of their benefit rights. It also requires a joint election by both the spouse, or former spouse, and the Foreign Service Officer or retiree for survivor benefits to be waived or reduced.

Status: Introduced as H.R. 6790. Enacted October 17, 1980.

V. HOUSING

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1979—PUBLIC LAW 96-153

With respect to housing for the elderly and the handicapped assisted under section 202, this act authorizes additional loans of \$527.5 million (exclusive of \$340 million previously authorized) for fiscal year 1980, \$950 million for fiscal year 1981, and \$975 million for fiscal year 1982. In selecting projects, the Department of Housing and Urban Development (HUD) is authorized to consider the extent to which the proposed projects will assist in stabilizing or revitalizing neighborhoods from which they might be displaced.

Status: Introduced as H.R. 3875. Enacted December 21, 1979.

HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS FOR FISCAL YEAR 1980—PUBLIC LAW 96-103

The law appropriated \$830 million for fiscal year 1980 (an increase of \$30 million over fiscal year 1979) to finance section 202 low-rent multifamily housing for the elderly and the handicapped in 1980. It also appropriated \$10 million (the same as for fiscal year 1979) for

congregate services to the elderly and handicapped residents of public housing and section 202 housing.

Status: Introduced as H.R. 4394. Enacted November 5, 1979.

HOUSING AND URBAN DEVELOPMENT APPROPRIATIONS FOR FISCAL YEAR 1981—PUBLIC LAW 96-526

This law appropriates \$855 million for fiscal year 1981 to finance section 202 low-rent multifamily housing for the elderly and handicapped. However this law also instructs the Office of Management and Budget (OMB) to cut the entire HUD and independent agencies' appropriations by 2 percent. As a result, OMB has instructed HUD to cut financing for the 202 program by \$24 million, to \$831 million. This act also appropriates \$10 million for congregate services for elderly and handicapped residents of public housing and section 202 housing. This \$10 million was proposed for rescission by the Carter administration.

Status: Reported as H.R. 7631. Enacted December 15, 1980.

VI. TRANSPORTATION

REDUCED RAILWAY FARES—PUBLIC LAW 96-73

Title I of the Amtrak Reorganization Act of 1979 amends the Rail Passenger Service Act to require the National Railroad Passenger Corporation to establish a reduced-fare program for elderly and handicapped individuals.

Status: Introduced as H.R. 3996. Enacted September 29, 1979.

VII. TAXATION

RATE OF INTEREST ON U.S. RETIREMENT BONDS—PUBLIC LAW 96-595

Under previous law, the interest rate on an individual retirement bond issued by the Treasury Department or a retirement plan bond issued by the Treasury Department remained the same from the date of issuance until the bond was redeemed (generally when the owner retires, becomes disabled, or dies).

A provision of this law authorizes the Treasury Department to make upward adjustments in the interest rate on outstanding retirement bonds, so that these bonds earn interest at a rate consistent with the yield for new issues of such bonds.

Status: Introduced as H.R. 4968. Enacted December 24, 1980.

EXTENSION OF DEDUCTION FOR REMOVAL OF ARCHITECTURAL BARRIERS—PUBLIC LAW 96-167

A provision of this law extends until December 31, 1982, the allowable tax deduction of up to \$25,000 annually for the removal of architectural and transportation barriers to the elderly and handicapped. Expenditures must be made to make facilities or public transportation vehicles used in the taxpayer's trade or business, more accessible to the elderly and handicapped.

Status: Introduced as H.R. 5224. Enacted December 29, 1979.