

COMPILATION  
OF THE  
OLDER AMERICANS ACT OF 1965  
AND THE  
NATIVE AMERICAN PROGRAMS ACT OF 1974  
As Amended Through December 31, 1992

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PREPARED FOR THE USE OF THE  
SPECIAL COMMITTEE ON AGING  
OF THE  
UNITED STATES SENATE  
ONE HUNDRED THIRD CONGRESS  
FIRST SESSION



AUGUST 1993

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# CONTENTS

## OLDER AMERICANS ACT OF 1965

### TITLE I—DECLARATION OF OBJECTIVES; DEFINITIONS

	Page
Sec. 101. Declaration of objectives for older Americans .....	1
Sec. 102. Definitions .....	2

### TITLE II—ADMINISTRATION ON AGING

Sec. 201. Establishment of Administration on Aging .....	7
Sec. 202. Functions of Commissioner .....	10
Sec. 203. Federal agency consultation .....	17
Sec. 203A. Consultation with State agencies, area agencies on aging, and Native American grant recipients .....	18
Sec. 204. Federal Council on the Aging .....	18
Sec. 205. Administration of the Act .....	20
Sec. 206. Evaluation .....	22
Sec. 207. Reports .....	24
Sec. 208. Joint funding of projects .....	26
Sec. 209. Advance funding .....	26
Sec. 210. Application of other laws .....	26
Sec. 211. Reduction of paperwork .....	27
Sec. 212. Contracting and grant authority .....	27
Sec. 213. Surplus property eligibility .....	27
Sec. 214. Nutrition education .....	27
Sec. 215. Authorization of appropriations .....	27

### TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

#### PART A—GENERAL PROVISIONS

Sec. 301. Purpose; administration .....	28
Sec. 302. Definitions .....	29
Sec. 303. Authorization of appropriations; uses of funds .....	30
Sec. 304. Allotment; Federal share .....	31
Sec. 305. Organization .....	32
Sec. 306. Area plans .....	37
Sec. 307. State plans .....	45
Sec. 308. Planning, coordination, evaluation, and administration of State plans .....	57
Sec. 309. Payments .....	61
Sec. 310. Disaster relief reimbursements .....	61
Sec. 311. Availability of surplus commodities .....	62
Sec. 312. Multipurpose senior centers: recapture of payments .....	63
Sec. 313. Audit .....	64
Sec. 314. Rights relating to in-home services for frail older individuals .....	64

#### PART B—SUPPORTIVE SERVICES AND SENIOR CENTERS

Sec. 321. Program authorized .....	65
------------------------------------	----

IV

PART C—NUTRITION SERVICE

SUBPART 1—CONGREGATE NUTRITION SERVICES

Sec. 331. Program authorized .....	67
------------------------------------	----

SUBPART 2—HOME DELIVERED NUTRITION SERVICES

Sec. 336. Program authorized .....	68
Sec. 337. Criteria .....	68

SUBPART 3—SCHOOL-BASED MEALS FOR VOLUNTEER OLDER INDIVIDUALS AND MULTIGENERATIONAL PROGRAMS

Sec. 338. Establishment .....	68
Sec. 338A. Application and selection of providers .....	69
Sec. 338B. Reports .....	70

SUBPART 4—GENERAL PROVISIONS

Sec. 339. Compliance with dietary guidelines .....	70
Sec. 339A. Payment requirement .....	70

PART D—IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS

Sec. 341. Program authorized .....	71
Sec. 342. Definition of in-home services .....	71
Sec. 343. State criteria .....	71
Sec. 344. Maintenance of effort .....	72

PART E—ADDITIONAL ASSISTANCE FOR SPECIAL NEEDS OF OLDER INDIVIDUALS

Sec. 351. Program authorized .....	72
------------------------------------	----

PART F—DISEASE PREVENTION AND HEALTH PROMOTION SERVICES

Sec. 361. Program authorized .....	72
Sec. 362. Distribution to area agencies on aging .....	73
Sec. 363. Definition .....	73

PART G—SUPPORTIVE ACTIVITIES FOR CARETAKERS WHO PROVIDE IN-HOME SERVICES TO FRAIL OLDER INDIVIDUALS

Sec. 381. Program authorized .....	74
Sec. 382. Definitions .....	74
Sec. 383. Maintenance of effort .....	74

TITLE IV—TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS

Sec. 401. Statement of purpose .....	74
Sec. 402. Administration .....	75

PART A—EDUCATION AND TRAINING

Sec. 410. Purpose .....	75
Sec. 411. Grants and contracts .....	76
Sec. 412. Multidisciplinary centers of gerontology .....	77

PART B—RESEARCH, DEMONSTRATIONS, AND OTHER ACTIVITIES

Sec. 420. Purpose .....	78
Sec. 421. Research and development projects .....	78
Sec. 422. Demonstration projects .....	79

	Page
Sec. 423. Special projects in comprehensive long-term care .....	83
Sec. 424. Special demonstration and support projects for legal assistance for older individuals .....	86
Sec. 425. National impact activities .....	86
Sec. 426. Utility and home heating cost demonstration projects .....	86
Sec. 427. Ombudsman and advocacy demonstration projects .....	87
Sec. 428. Consumer protection demonstration projects for services provided in the home .....	87
Sec. 429. Demonstration projects for multigenerational activities .....	88
Sec. 429A. Supportive services in federally assisted housing demonstration program .....	89
Sec. 429B. Neighborhood senior care program .....	91
Sec. 429C. Information and assistance systems development projects .....	92
Sec. 429D. Senior transportation demonstration program grants .....	93
Sec. 429E. Resource centers on Native American elders .....	94
Sec. 429F. Demonstration programs for older individuals with developmental disabilities .....	95
Sec. 429G. Housing demonstration programs .....	96
Sec. 429H. Private resource enhancement projects .....	99
Sec. 429I. Career preparation for the field of aging .....	99
Sec. 429J. Pension rights demonstration projects .....	100

#### PART C—GENERAL PROVISIONS

Sec. 431. Authorization of appropriations .....	103
Sec. 432. Payments of grants .....	103
Sec. 433. Responsibilities of Commissioner .....	104

#### TITLE V—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

Sec. 501. Short title .....	105
Sec. 502. Older American community service employment program .....	105
Sec. 503. Administration .....	109
Sec. 504. Participants not Federal employees .....	110
Sec. 505. Interagency cooperation .....	111
Sec. 506. Equitable distribution of assistance .....	111
Sec. 507. Definitions .....	114
Sec. 508. Authorization of appropriations .....	115
Sec. 509. Employment assistance and Federal housing and food stamp programs .....	115
Sec. 510. Dual eligibility .....	115
Sec. 511. Treatment of assistance .....	115

#### TITLE VI—GRANTS FOR NATIVE AMERICANS

Sec. 601. Statement of purpose .....	116
Sec. 602. Sense of Congress .....	116

#### PART A—INDIAN PROGRAM

Sec. 611. Findings .....	116
Sec. 612. Eligibility .....	116
Sec. 613. Grants authorized .....	117
Sec. 614. Applications .....	117
Sec. 614A. Distribution of funds among tribal organizations .....	118
Sec. 615. Surplus educational facilities .....	119

#### PART B—NATIVE HAWAIIAN PROGRAM

Sec. 621. Findings .....	119
Sec. 622. Eligibility .....	119
Sec. 623. Grants authorized .....	119
Sec. 624. Application .....	120
Sec. 624A. Distribution of funds among organizations .....	121
Sec. 625. Definition .....	121

VI

PART C—GENERAL PROVISIONS

	Page
Sec. 631. Administration .....	121
Sec. 632. Payments .....	121
Sec. 633. Authorization of appropriations .....	121

TITLE VII—ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES

SUBTITLE A—STATE PROVISIONS

CHAPTER 1—GENERAL STATE PROVISIONS

Sec. 701. Establishment .....	122
Sec. 702. Authorization of appropriations .....	122
Sec. 703. Allotment .....	122
Sec. 704. Organization .....	124
Sec. 705. Additional state plan requirements .....	124
Sec. 706. Demonstration projects .....	126

CHAPTER 2—OMBUDSMAN PROGRAMS

Sec. 711. Definitions .....	126
Sec. 712. State long-term care ombudsman program .....	127
Sec. 713. Regulations .....	133

CHAPTER 3—PROGRAMS FOR PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION

Sec. 721. Prevention of elder abuse, neglect, and exploitation .....	134
--	-----

CHAPTER 4—STATE ELDER RIGHTS AND LEGAL ASSISTANCE DEVELOPMENT PROGRAM

Sec. 731. State elder rights and legal assistance development .....	136
---	-----

CHAPTER 5—OUTREACH, COUNSELING, AND ASSISTANCE PROGRAM

Sec. 741. State outreach, counseling, and assistance program for insurance and public benefits .....	138
--	-----

SUBTITLE B—NATIVE AMERICAN ORGANIZATION PROVISIONS

Sec. 751. Native American program .....	141
---	-----

SUBTITLE G—GENERAL PROVISIONS

Sec. 761. Definitions .....	142
Sec. 762. Administration .....	142
Sec. 763. Technical assistance .....	142
Sec. 764. Audits .....	143

[ECONOMIC OPPORTUNITY ACT OF 1964]<sup>1</sup>

NATIVE AMERICAN PROGRAMS ACT OF 1974

TITLE VIII—NATIVE AMERICAN PROGRAMS

Sec. 801. Short title .....	145
Sec. 802. Statement of purpose .....	145
Sec. 803. Financial assistance for Native American projects .....	145

<sup>1</sup>Section 683(a) of P.L. 97-35 repeals all of this Act except title VIII and title X. Thus, the short title of the Act is repealed.

VII

	Page
Sec. 803A. Loan fund; demonstration project .....	147
Sec. 803B. Establishment of Administration for Native Americans .....	149
Sec. 803C. Grant program to ensure the survival and continuing vitality of Native American languages .....	150
Sec. 804. Technical assistance and training .....	153
Sec. 805. Research, demonstration, and pilot projects .....	154
Sec. 806. Panel review of applications for assistance .....	154
Sec. 807. Announcement of research, demonstration, or pilot projects .....	155
Sec. 808. Submission of plans to State and local officials .....	155
Sec. 809. Records and audits .....	156
Sec. 810. Appeals, notice, and hearing .....	156
Sec. 811. Evaluation .....	156
Sec. 811A. Annual report .....	157
Sec. 812. Labor standards .....	157
Sec. 812A. Staff .....	158
Sec. 813. Administration .....	158
Sec. 814. Additional requirements applicable to rulemaking .....	158
Sec. 815. Definitions .....	159
Sec. 816. Authorization of appropriations .....	160

APPENDIX

OLDER AMERICANS ACT AMENDMENTS OF 1987

\* \* \* \* \*

TITLE II—WHITE HOUSE CONFERENCE ON AGING

	Page
Sec. 201. White House Conference authorized .....	161
Sec. 202. Authorization of the Conference .....	162
Sec. 203. Conference administration .....	163
Sec. 204. Policy committee; related committees .....	164
Sec. 205. Report of the Conference .....	166
Sec. 206. Definitions .....	167
Sec. 207. Authorization of appropriations .....	167

OLDER AMERICANS ACT AMENDMENTS OF 1992

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TITLE II—ADMINISTRATION

\* \* \* \* \*

Sec. 212. Study on board and care facility quality .....	169
Sec. 213. Study on home care quality .....	171

# OLDER AMERICANS ACT OF 1965

(Public Law 89-73)

AN ACT To provide assistance in the development of new or improved programs to help older persons through grants to the States for community planning and services and for training, through research, development, or training project grants, and to establish within the Department of Health, Education, and Welfare an operating agency to be designated as the "Administration on Aging".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Older Americans Act of 1965".

(42 U.S.C. 3001 note)

## TITLE I—DECLARATION OF OBJECTIVES; DEFINITIONS

### DECLARATION OF OBJECTIVES FOR OLDER AMERICANS

SEC. 101. The Congress hereby finds and declares that, in keeping with the traditional American concept of the inherent dignity of the individual in our democratic society, the older people of our Nation are entitled to, and it is the joint and several duty and responsibility of the governments of the United States, of the several States and their political subdivisions, and of Indian tribes to assist our older people to secure equal opportunity to the full and free enjoyment of the following objectives:

(1) An adequate income in retirement in accordance with the American standard of living.

(2) The best possible physical and mental health which science can make available and without regard to economic status.

(3) Obtaining and maintaining suitable housing, independently selected, designed and located with reference to special needs and available at costs which older citizens can afford.

(4) Full restorative services for those who require institutional care, and a comprehensive array of community-based, long-term care services adequate to appropriately sustain older people in their communities and in their homes, including support to family members and other persons providing voluntary care to older individuals needing long-term care services.

(5) Opportunity for employment with no discriminatory personnel practices because of age.

(6) Retirement in health, honor, dignity—after years of contribution to the economy.

(7) Participating in and contributing to meaningful activity within the widest range of civic, cultural, educational and training and recreational opportunities.

(8) Efficient community services, including access to low-cost transportation, which provide a choice in supported living

arrangements and social assistance in a coordinated manner and which are readily available when needed, with emphasis on maintaining a continuum of care for vulnerable older individuals.

(9) Immediate benefit from proven research knowledge which can sustain and improve health and happiness.

(10) Freedom, independence, and the free exercise of individual initiative in planning and managing their own lives, full participation in the planning and operation of community-based services and programs provided for their benefit, and protection against abuse, neglect, and exploitation.

(42 U.S.C. 3001)

#### DEFINITIONS

SEC. 102. For the purposes of this Act—

(1) The term "Secretary" means the Secretary of Health and Human Services, except that for purposes of title V such term means the Secretary of Labor.

(2) The term "Commissioner" means, unless the context otherwise requires, the Commissioner of the Administration.

(3) The term "State" means any of the several States, the District of Columbia, the Virgin Islands<sup>1</sup>, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(4) The term "nonprofit" as applied to any agency, institution, or organization means an agency, institution, or organization which is, or is owned and operated by, one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(5) The term "Indian" means a person who is a member of an Indian tribe.

(6) Except for the purposes of title VI of this Act, the term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (Public Law 92-203; 85 Stat. 688) which (A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or (B) is located on, or in proximity to, a Federal or State reservation or rancheria.

(7) Except for the purposes of title VI of this Act, the term "tribal organization" means the recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body. In any case in which a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe

<sup>1</sup>Section 904(a)(2) of P.L. 102-375, 106 Stat. 1306, attempted to strike "Virgin Islands" and insert "United States Virgin Islands" but could not be executed because it referred to paragraph (2) instead of this paragraph.

shall be a prerequisite to the letting or making of such contract or grant.

(8) The term "disability" means (except when such term is used in the phrase "severe disability", "developmental disabilities", "physical or mental disability", "physical and mental disabilities", or "physical disabilities") a disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that results in substantial functional limitations in 1 or more of the following areas of major life activity: (A) self-care, (B) receptive and expressive language, (C) learning, (D) mobility, (E) self-direction, (F) capacity for independent living, (G) economic self-sufficiency, (H) cognitive functioning, and (I) emotional adjustment.

(9) The term "severe disability" means a severe, chronic disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that—

(A) is likely to continue indefinitely; and

(B) results in substantial functional limitation in 3 or more of the major life activities specified in subparagraphs (A) through (G) of paragraph (8).

(10) The term "assistive technology" means technology, engineering methodologies, or scientific principles appropriate to meet the needs of, and address the barriers confronted by, older individuals with functional limitations.

(11) The term "information and referral" includes information relating to assistive technology.

(12) The term "Trust Territory of the Pacific Islands" includes the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

(13) The term "abuse" means the willful—

(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish; or

(B) deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness.

(14) The term "Administration" means the Administration on Aging.

(15) The term "adult child with a disability" means a child who—

(A) is 18 years of age or older;

(B) is financially dependent on an older individual who is a parent of the child; and

(C) has a disability.

(16) The term "aging network" means the network of—

(A) State agencies, area agencies on aging, title VI grantees, and the Administration; and

(B) organizations that—

(i)(I) are providers of direct services to older individuals; or

(II) are institutions of higher education; and

(ii) receive funding under this Act.

(17) The term "area agency on aging" means an area agency on aging designated under section 305(a)(2)(A) or a State

agency performing the functions of an area agency on aging under section 305(b)(5).

(18) The term "art therapy" means the use of art and artistic processes specifically selected and administered by an art therapist, to accomplish the restoration, maintenance, or improvement of the mental, emotional, or social functioning of an older individual.

(19) The term "board and care facility" means an institution regulated by a State pursuant to section 1616(e) of the Social Security Act (42 U.S.C. 1382e(e)).

(20) The term "caregiver" means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law.

(21) The term "caretaker" means a family member or other individual who provides (on behalf of such individual or of a public or private agency, organization, or institution) uncompensated care to an older individual who needs supportive services.

(22) The term "case management service"—

(A) means a service provided to an older individual, at the direction of the older individual or a family member of the individual—

(i) by an individual who is trained or experienced in the case management skills that are required to deliver the services and coordination described in subparagraph (B); and

(ii) to assess the needs, and to arrange, coordinate, and monitor an optimum package of services to meet the needs, of the older individual; and

(B) includes services and coordination such as—

(i) comprehensive assessment of the older individual (including the physical, psychological, and social needs of the individual);

(ii) development and implementation of a service plan with the older individual to mobilize the formal and informal resources and services identified in the assessment to meet the needs of the older individual, including coordination of the resources and services—

(I) with any other plans that exist for various formal services, such as hospital discharge plans; and

(II) with the information and assistance services provided under this Act;

(iii) coordination and monitoring of formal and informal service delivery, including coordination and monitoring to ensure that services specified in the plan are being provided;

(iv) periodic reassessment and revision of the status of the older individual with—

(I) the older individual; or

(II) if necessary, a primary caregiver or family member of the older individual; and

(v) in accordance with the wishes of the older individual, advocacy on behalf of the older individual for needed services or resources.

(23) The term "dance-movement therapy" means the use of psychotherapeutic movement as a process facilitated by a dance-movement therapist, to further the emotional, cognitive, or physical health of an older individual.

(24) The term "elder abuse" means abuse of an older individual.

(25) The term "elder abuse, neglect, and exploitation" means abuse, neglect, and exploitation, of an older individual.

(26) The term "exploitation" means the illegal or improper act or process of an individual, including a caregiver, using the resources of an older individual for monetary or personal benefit, profit, or gain.

(27) The term "focal point" means a facility established to encourage the maximum collocation and coordination of services for older individuals.

(28) The term "frail" means, with respect to an older individual in a State, that the older individual is determined to be functionally impaired because the individual—

(A)(i) is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or

(ii) at the option of the State, is unable to perform at least three such activities without such assistance; or

(B) due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual.

(29) The term "greatest economic need" means the need resulting from an income level at or below the poverty line.

(30) The term "greatest social need" means the need caused by noneconomic factors, which include—

(A) physical and mental disabilities;

(B) language barriers; and

(C) cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that—

(i) restricts the ability of an individual to perform normal daily tasks; or

(ii) threatens the capacity of the individual to live independently.

(31) The term "information and assistance service" means a service for older individuals that—

(A) provides the individuals with current information on opportunities and services available to the individuals within their communities, including information relating to assistive technology;

(B) assesses the problems and capacities of the individuals;

(C) links the individuals to the opportunities and services that are available;

(D) to the maximum extent practicable, ensures that the individuals receive the services needed by the individ-

uals, and are aware of the opportunities available to the individuals, by establishing adequate followup procedures; and

(E) serves the entire community of older individuals, particularly—

(i) older individuals with greatest social need; and

(ii) older individuals with greatest economic need.

(32) The term “institution of higher education” has the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

(33) The term “legal assistance”—

(A) means legal advice and representation provided by an attorney to older individuals with economic or social needs; and

(B) includes—

(i) to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the direct supervision of an attorney; and

(ii) counseling or representation by a nonlawyer where permitted by law.

(34) The term “long-term care facility” means—

(A) any skilled nursing facility, as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i-3(a));

(B) any nursing facility, as defined in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a));

(C) for purposes of sections 307(a)(12) and 712, a board and care facility; and

(D) any other adult care home similar to a facility or institution described in subparagraphs (A) through (C).

(35) The term “multipurpose senior center” means a community facility for the organization and provision of a broad spectrum of services, which shall include provision of health (including mental health), social, nutritional, and educational services and the provision of facilities for recreational activities for older individuals.

(36) The term “music therapy” means the use of musical or rhythmic interventions specifically selected by a music therapist to accomplish the restoration, maintenance, or improvement of social or emotional functioning, mental processing, or physical health of an older individual.

(37) The term “neglect” means—

(A) the failure to provide for oneself the goods or services that are necessary to avoid physical harm, mental anguish, or mental illness; or

(B) the failure of a caregiver to provide the goods or services.

(38) The term “older individual” means an individual who is 60 years of age or older.

(39) The term “physical harm” means bodily injury, impairment, or disease.

(40) The term “planning and service area” means an area designated by a State agency under section 305(a)(1)(E), including a single planning and service area described in section 305(b)(5)(A).

(41) The term "poverty line" means the official poverty line (as defined by the Office of Management and Budget, and adjusted by the Secretary in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

(42) The term "representative payee" means a person who is appointed by a governmental entity to receive, on behalf of an older individual who is unable to manage funds by reason of a physical or mental incapacity, any funds owed to such individual by such entity.

(43) The term "State agency" means the agency designated under section 305(a)(1).

(44) The term "supportive service" means a service described in section 321(a).

(42 U.S.C. 3002)

## TITLE II—ADMINISTRATION ON AGING

### ESTABLISHMENT OF ADMINISTRATION ON AGING

SEC. 201. (a) There is established in the Office of the Secretary an Administration on Aging which shall be headed by a Commissioner on Aging. Except for title V, the Administration shall be the agency for carrying out this Act. There shall be a direct reporting relationship between the Commissioner and the Secretary. In the performance of the functions of the Commissioner, the Commissioner shall be directly responsible to the Secretary. The Secretary shall not approve or require any delegation of the functions of the Commissioner (including the functions of the Commissioner carried out through regional offices) to any other officer not directly responsible to the Commissioner.

(b) The Commissioner shall be appointed by the President by and with the advice and consent of the Senate.

(c)(1) There is established in the Administration an Office for American Indian, Alaskan Native, and Native Hawaiian Programs.

(2) The Office shall be headed by an Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging appointed by the Commissioner.

(3) The Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging shall—

(A)(i) evaluate the adequacy of outreach under title III and title VI for older individuals who are Native Americans and recommend to the Commissioner necessary action to improve service delivery, outreach, coordination between title III and title VI services, and particular problems faced by older Indians and Native Hawaiians; and

(ii) include a description of the results of such evaluation and recommendations in the annual report required by section 207(a) to be submitted by the Commissioner;

(B) serve as the effective and visible advocate in behalf of older individuals who are Native Americans within the Department of Health and Human Services and with other departments and agencies of the Federal Government regarding all Federal policies affecting such individuals, with particular at-

attention to services provided to Native Americans by the Indian Health Service;

(C) coordinate activities between other Federal departments and agencies to assure a continuum of improved services through memoranda of agreements or through other appropriate means of coordination;

(D) administer and evaluate the grants provided under this Act to Indian tribes, public agencies and nonprofit private organizations serving Native Hawaiians;

(E) recommend to the Commissioner policies and priorities with respect to the development and operation of programs and activities conducted under this Act relating to older individuals who are Native Americans;

(F) collect and disseminate information related to problems experienced by older Native Americans, including information (compiled with assistance from public or nonprofit private entities, including institutions of higher education, with experience in assessing the characteristics and health status of older individuals who are Native Americans) on elder abuse, in-home care, health problems, and other problems unique to Native Americans;

(G) develop research plans, and conduct and arrange for research, in the field of American Native aging with a special emphasis on the gathering of statistics on the status of older individuals who are Native Americans;

(H) develop and provide technical assistance and training programs to grantees under title VI;

(I) promote coordination—

(i) between the administration of title III and the administration of title VI; and

(ii) between programs established under title III by the Commissioner and programs established under title VI by the Commissioner;

including sharing among grantees information on programs funded, and on training and technical assistance provided, under such titles; and

(J) serve as the effective and visible advocate on behalf of older individuals who are Indians, Alaskan Natives, and Native Hawaiians, in the States to promote the enhanced delivery of services and implementation of programs, under this Act and other Federal Acts, for the benefit of such individuals.

(d)(1) There is established in the Administration the Office of Long-Term Care Ombudsman Programs (in this subsection referred to as the "Office").

(2)(A) The Office shall be headed by an Associate Commissioner for Ombudsman Programs (in this subsection referred to as the "Associate Commissioner") who shall be appointed by the Commissioner from among individuals who have expertise and background in the fields of long-term care advocacy and management. The Associate Commissioner shall report directly to the Commissioner.

(B) No individual shall be appointed Associate Commissioner if—

(i) the individual has been employed within the previous 2 years by—

(I) a long-term care facility;

(II) a corporation that then owned or operated a long-term care facility; or

(III) an association of long-term care facilities;

(ii) the individual—

(I) has an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or long-term care service; or

(II) receives, or has the right to receive, directly or indirectly remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility; or

(iii) the individual, or any member of the immediate family of the individual, is subject to a conflict of interest.

(3) The Associate Commissioner shall—

(A) serve as an effective and visible advocate on behalf of older individuals who reside in long-term care facilities, within the Department of Health and Human Services and with other departments, agencies, and instrumentalities of the Federal Government regarding all Federal policies affecting such individuals;

(B) review and make recommendations to the Commissioner regarding—

(i) the approval of the provisions in State plans submitted under section 307(a) that relate to State Long-Term Care Ombudsman programs; and

(ii) the adequacy of State budgets and policies relating to the programs;

(C) after consultation with State Long-Term Care Ombudsmen and the State agencies, make recommendations to the Commissioner regarding—

(i) policies designed to assist State Long-Term Care Ombudsmen; and

(ii) methods to periodically monitor and evaluate the operation of State Long-Term Care Ombudsman programs, to ensure that the programs satisfy the requirements of section 307(a)(12) and section 712, including provision of service to residents of board and care facilities and of similar adult care facilities;

(D) keep the Commissioner and the Secretary fully and currently informed about—

(i) problems relating to State Long-Term Care Ombudsman programs; and

(ii) the necessity for, and the progress toward, solving the problems;

(E) review, and make recommendations to the Secretary and the Commissioner regarding, existing and proposed Federal legislation, regulations, and policies regarding the operation of State Long-Term Care Ombudsman programs;

(F) make recommendations to the Commissioner and the Secretary regarding the policies of the Administration, and coordinate the activities of the Administration with the activities

of other Federal entities, State and local entities, and non-governmental entities, relating to State Long-Term Care Ombudsman programs;

(G) supervise the activities carried out under the authority of the Administration that relate to State Long-Term Care Ombudsman programs;

(H) administer the National Ombudsman Resource Center established under section 202(a)(21) and make recommendations to the Commissioner regarding the operation of the National Ombudsman Resource Center;

(I) advocate, monitor, and coordinate Federal and State activities of Long-Term Care Ombudsmen under this Act;

(J) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an annual report on the effectiveness of services provided under section 307(a)(12) and section 712;

(K) have authority to investigate the operation or violation of any Federal law administered by the Department of Health and Human Services that may adversely affect the health, safety, welfare, or rights of older individuals; and

(L) not later than 180 days after the date of the enactment of the Older Americans Act Amendments of 1992, establish standards applicable to the training required by section 712(h)(4).

(42 U.S.C. 3011)

#### FUNCTIONS OF COMMISSIONER

SEC. 202. (a) It shall be the duty and function of the Administration to—

(1) serve as the effective and visible advocate for older individuals within the Department of Health and Human Services and with other departments, agencies, and instrumentalities of the Federal Government by maintaining active review and commenting responsibilities over all Federal policies affecting older individuals;

(2) collect and disseminate information related to problems of the aged and aging;

(3) directly assist the Secretary in all matters pertaining to problems of the aged and aging;

(4) administer the grants provided by this Act;

(5) develop plans, conduct and arrange for research in the field of aging, and assist in the establishment and implementation of programs designed to meet the needs of older individuals for supportive services, including nutrition, hospitalization, education and training services (including preretirement training, and continuing education), low-cost transportation and housing, and health (including mental health) services;

(6) provide technical assistance and consultation to States and political subdivisions thereof with respect to programs for the aged and aging;

(7) prepare, publish, and disseminate educational materials dealing with the welfare of older individuals;

(8) gather statistics in the field of aging which other Federal agencies are not collecting, and take whatever action is necessary to achieve coordination of activities carried out or assisted by all departments, agencies, and instrumentalities of the Federal Government with respect to the collection, preparation, and dissemination of information relevant to older individuals;

(9) stimulate more effective use of existing resources and available services for the aged and aging, including existing legislative protections with particular emphasis on the application of the Age Discrimination in Employment Act of 1967;

(10) develop basic policies and set priorities with respect to the development and operation of programs and activities conducted under authority of this Act;

(11) coordinate Federal programs and activities related to such purposes;

(12) coordinate, and assist in, the planning and development by public (including Federal, State, and local agencies) and private organizations or programs for older individuals with a view to the establishment of a nationwide network of comprehensive, coordinated services and opportunities for such individuals;

(13) convene conferences of such authorities and officials of public (including Federal, State, and local agencies) and non-profit private organizations concerned with the development and operation of programs for older individuals as the Commissioner deems necessary or proper for the development and implementation of policies related to the objectives of this Act;

(14) develop and operate programs providing services and opportunities as authorized by this Act which are not otherwise provided by existing programs for older individuals;

(15) carry on a continuing evaluation of the programs and activities related to the objectives of this Act, with particular attention to the impact of medicare and medicaid, the Age Discrimination in Employment Act of 1967, and the programs of the National Housing Act relating to housing for older individuals and the setting of standards for the licensing of nursing homes, intermediate care homes, and other facilities providing care for such individuals;

(16) provide information and assistance to private organizations for the establishment and operation by them of programs and activities related to the objectives of this Act;

(17) develop, in coordination with other agencies, a national plan for meeting the needs for trained personnel in the field of aging, and for training persons for carrying out programs related to the objectives of this Act, and conduct and provide for the conducting of such training;

(18) consult with national organizations representing minority individuals to develop and disseminate training packages and to provide technical assistance efforts designed to as-

sist State and area agencies, and service providers,<sup>1</sup> on aging in providing services to older individuals with greatest economic need or individuals with greatest social need, with particular attention to and specific objectives for providing services to low-income minority individuals;

(19) collect for each fiscal year, for fiscal years beginning after September 30, 1988, directly or by contract, statistical data regarding programs and activities carried out with funds provided under this Act, including—

(A) with respect to each type of service or activity provided with such funds—

(i) the aggregate amount of such funds expended to provide such service or activity;

(ii) the number of individuals who received such service or activity; and

(iii) the number of units of such service or activity provided;

(B) the number of senior centers which received such funds; and

(C) the extent to which each area agency on aging designated under section 305(a) satisfied the requirements of paragraphs (2) and (5)(A) of section 306(a);

(20) obtain from—

(A) the Department of Agriculture information explaining the requirements for eligibility to receive benefits under the Food Stamp Act of 1977; and

(B) the Social Security Administration information explaining the requirements for eligibility to receive supplemental security income benefits under title XVI of the Social Security Act (or assistance under a State plan program under title XVI of that Act);

and distribute such information, in written form, to State agencies, for redistribution to area agencies on aging, to carry out outreach activities and application assistance;

(21)(A) establish and operate the National Ombudsman Resource Center (in this paragraph referred to as the "Center"), under the administration of the Associate Commissioner for Ombudsman Programs, that will—

(i) by grant or contract—

(I) conduct research;

(II) provide training, technical assistance, and information to State Long-Term Care Ombudsmen;

(III) analyze laws, regulations, programs, and practices; and

(IV) provide assistance in recruiting and retaining volunteers for State Long-Term Care Ombudsman programs by establishing a national program for recruitment efforts that utilizes the organizations that have established a successful record in recruiting and retaining volunteers for ombudsman or other programs;

<sup>1</sup> Error in amendment made by section 202(a)(3)(A) of Public Law 102-375. Should strike "and service providers," here and insert "and service providers," after "aging".

relating to Federal, State, and local long-term care ombudsman policies; and

(ii) assist State Long-Term Care Ombudsmen in the implementation of State Long-Term Care Ombudsman programs; and

(B) make available to the Center not less than the amount of resources made available to the Long-Term Care Ombudsman National Resource Center for fiscal year 1990;

(22) issue regulations, and conduct strict monitoring of State compliance with the requirements in effect, under this Act to prohibit conflicts of interest and to maintain the integrity and public purpose of services provided and service providers, under this Act in all contractual and commercial relationships, and include in such regulations a requirement that as a condition of being designated as an area agency on aging such agency shall—

(A) disclose to the Commissioner and the State agency involved—

(i) the identity of each nongovernmental entity with which such agency has a contract or commercial relationship relating to providing any service to older individuals; and

(ii) the nature of such contract or such relationship;

(B) demonstrate that a loss or diminution in the quantity or quality of the services provided, or to be provided, under this Act by such agency has not resulted and will not result from such contract or such relationship;

(C) demonstrate that the quantity or quality of the services to be provided under this Act by such agency will be enhanced as a result of such contract or such relationship; and

(D) on the request of the Commissioner or the State, for the purpose of monitoring compliance with this Act (including conducting an audit), disclose all sources and expenditures of funds received or expended to provide services to older individuals;

(23) encourage, and provide technical assistance to, States and area agencies on aging to carry out outreach to inform older individuals with greatest economic need who may be eligible to receive, but are not receiving, supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) (or assistance under a State plan program under such title), medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.), and benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), of the requirements for eligibility to receive such benefits and such assistance;

(24) establish information and assistance services as priority services for older individuals;

(25) develop guidelines for area agencies on aging to follow in choosing and evaluating providers of legal assistance;

(26) develop guidelines and a model job description for choosing and evaluating legal assistance developers referred to in sections 307(a)(18) and 731(b)(2);

(27)(A) conduct a study to determine ways in which Federal funds might be more effectively targeted to low-income minority older individuals, and older individuals residing in rural areas, to better meet the needs of States with a disproportionate number of older individuals with greatest economic need and older individuals with greatest social need;

(B) conduct a study to determine ways in which Federal funds might be more effectively targeted to better meet the needs of States with disproportionate numbers of older individuals, including methods of allotting funds under title III, using the most recent estimates of the population of older individuals; and

(C) not later than January 1, 1994, submit a report containing the findings resulting from the studies described in subparagraphs (A) and (B) to the Speaker of the House of Representatives and the President pro tempore of the Senate;

(28) provide technical assistance, training, and other means of assistance to State agencies, area agencies on aging, and service providers regarding State and local data collection and analysis;

(29) design and implement, for purposes of compliance with paragraph (19), uniform data collection procedures for use by State agencies, including—

(A) uniform definitions and nomenclature;

(B) standardized data collection procedures;

(C) a participant identification and description system;

(D) procedures for collecting information on gaps in services needed by older individuals, as identified by service providers in assisting clients through the provision of the supportive services; and

(E) procedures for the assessment of unmet needs for services under this Act; and

(30) require that all Federal grants and contracts made under this title and title IV be made in accordance with a competitive bidding process established by the Commissioner by regulation.

(b) In order to strengthen the involvement of the Administration in the development of policy alternatives in long-term care and to insure that the development of community alternatives is given priority attention, the Commissioner shall—

(1) develop planning linkages with utilization and quality control peer review organizations under title XI of the Social Security Act, with the Substance Abuse and Mental Health Services Administration and the Administration on Developmental Disabilities;

(2) participate in all departmental and interdepartmental activities which concern issues of institutional and noninstitutional long-term health care services development;

(3) review and comment on all departmental regulations and policies regarding community health and social service development for older individuals; and

(4) participate in all departmental and interdepartmental activities to provide a leadership role for the Administration, State agencies, and area agencies on aging in the development

and implementation of a national community-based long-term care program for older individuals.

(c)(1) In executing the duties and functions of the Administration under this Act and carrying out the programs and activities provided for by this Act, the Commissioner, in consultation with the Director of the ACTION Agency, shall take all possible steps to encourage and permit voluntary groups active in supportive services, including youth organizations active at the high school or college levels, to participate and be involved individually or through representative groups in such programs or activities to the maximum extent feasible, through the performance of advisory or consultative functions, and in other appropriate ways.

(2)(A) In executing the duties and functions of the Administration under this Act and in carrying out the programs and activities provided for by this Act, the Commissioner shall act to encourage and assist the establishment and use of—

(i) area volunteer service coordinators, as described in section 306(a)(12), by area agencies on aging; and

(ii) State volunteer service coordinators, as described in section 307(a)(31), by State agencies.

(B) The Commissioner shall provide technical assistance to the area and State volunteer services coordinators.

(d)(1) The Commissioner shall establish and operate the National Center on Elder Abuse (in this subsection referred to as the "Center").

(2) In operating the Center, the Commissioner shall—

(A) annually compile, publish, and disseminate a summary of recently conducted research on elder abuse, neglect, and exploitation;

(B) develop and maintain an information clearinghouse on all programs (including private programs) showing promise of success, for the prevention, identification, and treatment of elder abuse, neglect, and exploitation;

(C) compile, publish, and disseminate training materials for personnel who are engaged or intend to engage in the prevention, identification, and treatment of elder abuse, neglect, and exploitation;

(D) provide technical assistance to State agencies and to other public and nonprofit private agencies and organizations to assist the agencies and organizations in planning, improving, developing, and carrying out programs and activities relating to the special problems of elder abuse, neglect, and exploitation; and

(E) conduct research and demonstration projects regarding the causes, prevention, identification, and treatment of elder abuse, neglect, and exploitation.

(3)(A) The Commissioner shall carry out paragraph (2) through grants or contracts.

(B) The Commissioner shall issue criteria applicable to the recipients of funds under this subsection. To be eligible to receive a grant or enter into a contract under subparagraph (A), an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

(C) The Commissioner shall—

(i) establish research priorities for making grants or contracts to carry out paragraph (2)(E); and

(ii) not later than 60 days before the date on which the Commissioner establishes such priorities, publish in the Federal Register for public comment a statement of such proposed priorities.

(4) The Commissioner shall make available to the Center such resources as are necessary for the Center to carry out effectively the functions of the Center under this Act and not less than the amount of resources made available to the Resource Center on Elder Abuse for fiscal year 1990.

(e)(1)(A) The Commissioner shall make grants or enter into contracts with eligible entities to establish the National Aging Information Center (in this subsection referred to as the "Center") to—

(i) provide information about education and training projects established under part A, and research and demonstration projects, and other activities, established under part B, of title IV to persons requesting such information;

(ii) annually compile, analyze, publish, and disseminate—

(I) statistical data collected under subsection (a)(19);

(II) census data on aging demographics; and

(III) data from other Federal agencies on the health, social, and economic status of older individuals and on the services provided to older individuals;

(iii) biennially compile, analyze, publish, and disseminate statistical data collected on the functions, staffing patterns, and funding sources of State agencies and area agencies on aging;

(iv) analyze the information collected under section 201(c)(3)(F) by the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging, and the information provided by the Resource Centers on Native American Elders under section 429E;

(v) provide technical assistance, training, and other means of assistance to State agencies, area agencies on aging, and service providers, regarding State and local data collection and analysis; and

(vi) be a national resource on statistical data regarding aging;

(B) To be eligible to receive a grant or enter into a contract under subparagraph (A), an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

(C) Entities eligible to receive a grant or enter into a contract under subparagraph (A) shall be organizations with a demonstrated record of experience in education and information dissemination.

(2)(A) The Commissioner shall establish procedures specifying the length of time that the Center shall provide the information described in paragraph (1) with respect to a particular project or activity. The procedures shall require the Center to maintain the in-

formation beyond the term of the grant awarded, or contract entered into, to carry out the project or activity.

(B) The Commissioner shall establish the procedures described in subparagraph (A) after consultation with—

- (i) practitioners in the field of aging;
- (ii) older individuals;
- (iii) representatives of institutions of higher education;
- (iv) national aging organizations;
- (v) State agencies;
- (vi) area agencies on aging;
- (vii) legal assistance providers;
- (viii) service providers; and
- (ix) other persons with an interest in the field of aging.

(42 U.S.C. 3012)

#### FEDERAL AGENCY CONSULTATION

SEC. 203. (a)(1) The Commissioner, in carrying out the objectives and provisions of this Act, shall coordinate, advise, consult with, and cooperate with the head of each department, agency, or instrumentality of the Federal Government proposing or administering programs or services substantially related to the objectives of this Act, with respect to such programs or services. In particular, the Commissioner shall coordinate, advise, consult, and cooperate with the Secretary of Labor in carrying out title V and with the ACTION Agency in carrying out this Act.

(2) The head of each department, agency, or instrumentality of the Federal Government proposing to establish programs and services substantially related to the objectives of this Act shall consult with the Commissioner prior to the establishment of such programs and services. To achieve appropriate coordination, the head of each department, agency, or instrumentality of the Federal Government administering any program substantially related to the objectives of this Act, particularly administering any program referred to in subsection (b), shall consult and cooperate with the Commissioner in carrying out such program. In particular, the Secretary of Labor shall consult and cooperate with the Commissioner in carrying out the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(3) The head of each Federal department, agency, or instrumentality of the Federal Government administering programs and services substantially related to the objectives of this Act shall collaborate with the Commissioner in carrying out this Act, and shall develop a written analysis, for review and comment by the Commissioner, of the impact of such programs and services on—

(A) older individuals (with particular attention to low-income minority older individuals) and eligible individuals (as defined in section 507); and

(B) the functions and responsibilities of State agencies and area agencies on aging.

(b) For the purposes of subsection (a), programs related to the objectives of this Act shall include—

(1) the Job Training Partnership Act,

(2) title II of the Domestic Volunteer Service Act of 1973,

- (3) titles XVI, XVIII, XIX, and XX of the Social Security Act,
- (4) sections 231 and 232 of the National Housing Act,
- (5) the United States Housing Act of 1937,
- (6) section 202 of the Housing Act of 1959,
- (7) title I of the Housing and Community Development Act of 1974,
- (8) title I of the Higher Education Act of 1965 and the Adult Education Act,
- (9) sections 3, 9, and 16 of the Urban Mass Transportation Act of 1964,
- (10) the Public Health Service Act, including block grants under title XIX of such Act,
- (11) the Low-Income Home Energy Assistance Act of 1981,
- (12) part A of the Energy Conservation in Existing Buildings Act of 1976, relating to weatherization assistance for low income persons,
- (13) the Community Services Block Grant Act,
- (14) demographic statistics and analysis programs conducted by the Bureau of the Census under title 13, United States Code,
- (15) parts II and III of title 38, United States Code,
- (16) the Rehabilitation Act of 1973,
- (17) the Developmental Disabilities and Bill of Rights Act,
- and
- (18) the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, established under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750-3766b)).

(42 U.S.C. 3013)

**SEC. 203A. CONSULTATION WITH STATE AGENCIES, AREA AGENCIES ON AGING, AND NATIVE AMERICAN GRANT RECIPIENTS.**

The Commissioner shall consult and coordinate with State agencies, area agencies on aging, and recipients of grants under title VI in the development of Federal goals, regulations, program instructions, and policies under this Act.

(42 U.S.C. 3013a)

**FEDERAL COUNCIL ON THE AGING**

**SEC. 204.** (a)(1) There is established a Federal Council on the Aging to be composed of 15 members. Except as provided in subsection (b)(1)(A), members shall serve for terms of 3 years, ending on March 31 regardless of the actual date of appointment, without regard to the provisions of title 5, United States Code. Members shall be appointed from among individuals who have expertise and experience in the field of aging by each appointing authority so as to be representative of rural and urban older individuals, national organizations with an interest in aging, business, labor, minorities, Indian tribes, and the general public. At least three of the members appointed by each appointing authority shall be older individuals. No full-time officer or employee of the Federal Government may be appointed as a member of the Council.

(2) Members appointed to the Federal Council on the Aging established by this section prior to the date of enactment of the Older Americans Act Amendments of 1992 who are serving on such date, shall continue to serve on the Federal Council established by paragraph (1) of this subsection until members are appointed in accordance with subsection (b)(1).

(b)(1)(A)(i) The initial members of the Federal Council on the Aging shall be appointed on April 1, 1993, as follows:

(I) 5 members, who shall be referred to as class 1 members, shall be appointed for a term of 1 year;

(II) 5 members, who shall be referred to as class 2 members, shall be appointed for a term of 2 years; and

(III) 5 members, who shall be referred to as class 3 members, shall be appointed for a term of 3 years.

(ii) Members appointed in 1994 and each third year thereafter shall be referred to as class 1 members. Members appointed in 1995 and each third year thereafter shall be referred to as class 2 members. Members appointed in 1996 and each third year thereafter shall be referred to as class 3 members.

(B)(i) Members of each class shall be appointed in the manner prescribed by this subparagraph.

(ii) Of the members of class 1, two shall be appointed by the President, two by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader, and one by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader.

(iii) Of the members of class 2, two shall be appointed by the President, one by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader, and two by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader.

(iv) Of the members of class 3, one shall be appointed by the President, two by the President pro tempore of the Senate upon the recommendation of the Majority Leader and the Minority Leader, and two by the Speaker of the House of Representatives upon the recommendation of the Majority Leader and the Minority Leader.

(2) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term. Members shall be eligible for reappointment and may serve after the expiration of their terms until their successors have taken office.

(3) Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner by which the original appointment was made.

(4) Members of the Council shall, while serving on business of the Council, be entitled to receive compensation at a rate not to exceed the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316 of title 5, United States Code, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of title 5, United States

Code, for persons in the Government service employed intermittently.

(c) The President shall designate the Chairperson from among the members appointed to the Council. The Council shall meet at the call of the Chairperson at least quarterly.

(d) The Council shall—

(1) advise and assist the President on matters relating to the special needs of older individuals;

(2) directly advise the Commissioner on matters affecting the special needs of older individuals for services and assistance under this Act;

(3) review and evaluate, on a continuing basis, Federal policies regarding the aging and programs and other activities affecting the aging conducted or assisted by all Federal departments and agencies for the purpose of appraising their value and their impact on the lives of older individuals and of identifying duplication and gaps among the types of services provided under such programs and activities;

(4) serve as a spokesman on behalf of older individuals by making recommendations to the President, to the Secretary, to the Commissioner, and to the Congress with respect to Federal policies regarding the aging and federally conducted or assisted programs and other activities relating to or affecting them;

(5) inform the public about the problems and needs of the aging by collecting and disseminating information, conducting or commissioning studies and publishing the results thereof, and by issuing publications and reports; and

(6) provide public forums for discussing and publicizing the problems and needs of the aging and obtaining information relating thereto by conducting public hearings, and by conducting or sponsoring conferences, workshops, and other such meetings.

(e) The Council shall have staff personnel, appointed by the Chairperson, to assist it in carrying out its activities. The head of each Federal department and agency shall make available to the Council such information and other assistance as it may require to carry out its activities.

(f) Beginning with the year 1974 the Council shall make interim reports and an annual report of its findings and recommendations to the President not later than March 31 of each year. The President shall transmit each such report to the Congress together with his comments and recommendations.

(g) There are authorized to be appropriated to carry out this section \$300,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995.

(42 U.S.C. 3015)

#### ADMINISTRATION OF THE ACT

SEC. 205. (a)(1) In carrying out the objectives of this Act, the Commissioner is authorized to—

(A) provide consultative services and technical assistance to public or nonprofit private agencies and organizations;

(B) provide short-term training and technical instruction;

(C) conduct research and demonstrations;

(D) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this Act; and

(E) provide staff and other technical assistance to the Federal Council on the Aging.

(2)(A) The Commissioner shall designate an officer or employee who shall serve on a full-time basis and who shall be responsible for the administration of the nutrition services described in subparts 1, 2, and 3 of part C of title III and shall have duties that include—

(i) designing, implementing, and evaluating nutrition programs;

(ii) developing guidelines for nutrition providers concerning safety, sanitary handling of food, equipment, preparation, and food storage;

(iii) disseminating information to nutrition service providers about nutrition advancements and developments;

(iv) promoting coordination between nutrition service providers and community-based organizations serving older individuals;

(v) developing guidelines on cost containment;

(vi) defining a long range role for the nutrition services in community-based care systems;

(vii) developing model menus and other appropriate materials for serving special needs populations and meeting cultural meal preferences; and

(viii) providing technical assistance to the regional offices of the Administration with respect to each duty described in clauses (i) through (vii).

(B) The regional offices of the Administration shall be responsible for disseminating, and providing technical assistance regarding, the guidelines and information described in clauses (ii), (iii), and (v) of subparagraph (A) to State agencies, area agencies on aging, and persons that provide nutrition services under part C of title III.

(C) The officer or employee designated under subparagraph (A) shall—

(i) have expertise in nutrition and dietary services and planning; and

(ii)(I) be a registered dietitian;

(II) be a credentialed nutrition professional; or

(III) have education and training that is substantially equivalent to the education and training for a registered dietitian or a credentialed nutrition professional.

(b) In administering the functions of the Administration under this Act, the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organization, in accordance with agreements between the Commissioner and the head thereof, and is authorized to pay therefor, in advance or by way of reimbursement, as may be provided in the agreement.

(c) Not later than 120 days after the date of the enactment of the Older Americans Act Amendments of 1987, the Secretary shall

issue and publish in the Federal Register proposed regulations for the administration of this Act. After allowing a reasonable period for public comment on such proposed rules and not later than 90 days after such publication, the Secretary shall issue, in final form, regulations for the administration of this Act.

(d) Not later than September 1 of each fiscal year, the Commissioner shall make available to the public, for the purpose of facilitating informed public comment, a statement of proposed specific goals to be achieved by implementing this Act in the first fiscal year beginning after the date on which such statement is made available.

(e) For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

(42 U.S.C. 3016)

#### EVALUATION

SEC. 206. (a) The Secretary shall measure and evaluate the impact of all programs authorized by this Act, their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, their effectiveness in targeting for services under this Act unserved older individuals with greatest economic need (including low-income minority individuals) and unserved older individuals with greatest social need (including low-income minority individuals), and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

(b) The Secretary may not make grants or contracts under title IV of this Act until the Secretary develops and publishes general standards to be used by the Secretary in evaluating the programs and projects assisted under such title. Results of evaluations conducted pursuant to such standards shall be included in the reports required by section 207.

(c) In carrying out evaluations under this section, the Secretary shall, whenever possible, arrange to obtain the opinions of program and project participants about the strengths and weaknesses of the programs and projects, and conduct, where appropriate, evaluations which compare the effectiveness of related programs in achieving common objectives. In carrying out such evaluations, the Secretary shall consult with organizations concerned with older individuals, including those representing minority individuals and older individuals with disabilities.

(d) The Secretary shall annually publish summaries and analyses of the results of evaluative research and evaluation of program and project impact and effectiveness, including, as appropriate, health and nutrition education demonstration projects conducted under section 307(f) the full contents of which shall be transmitted to Congress, be disseminated to Federal, State, and local agencies and private organizations with an interest in aging, and be accessible to the public.

(e) The Secretary shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with Federal funds shall become the property of the United States.

(f) Such information as the Secretary may deem necessary for purposes of the evaluations conducted under this section shall be made available to him, upon request, by the departments and agencies of the executive branch.

(g)(1) Not later than June 30, 1994, the Commissioner, in consultation with the Assistant Secretary for Planning and Evaluation of the Department of Health and Human Services, shall complete an evaluation of nutrition services provided under this Act, to evaluate for fiscal years 1992 and 1993—

(A) their effectiveness in serving special populations of older individuals;

(B) the quality of nutrition provided by such services;

(C) average meal costs (including the cost of food, related administrative costs, and the cost of supportive services relating to nutrition services), taking into account regional differences and size of projects;

(D) the characteristics of participants;

(E) the applicability of health, safety, and dietary standards;

(F) the appraisal of such services by recipients;

(G) the efficiency of delivery and administration of such services;

(H) the amount, sources, and ultimate uses of funds transferred under section 308(b)(5) to provide such services;

(I) the amount, sources, and uses of other funds expended to provide such services, including the extent to which funds received under this Act are used to generate additional funds to provide such services;

(J) the degree of nutritional expertise used to plan and manage coordination with other State and local services;

(K) nonfood cost factors incidental to providing nutrition services under this Act;

(L) the extent to which commodities provided by the Secretary of Agriculture under section 311(a) are used to provide such services;

(M) and for the 8-year period ending September 30, 1992, the characteristics, and changes in the characteristics, of such nutrition services;

(N) differences between older individuals who receive nutrition services under section 331 and older individuals who receive nutrition services under section 336, with specific reference to age, income, health status, receipt of food stamp benefits, and limitations on activities of daily living;

(O) the impact of the increase in nutrition services provided under section 336, the factors that caused such increase, and the effect of such increase on nutrition services authorized under section 336;

(P) how, and the extent to which, nutrition services provided under this Act generally, and under section 331 specifically, are integrated with long-term care programs;

(Q) the impact of nutrition services provided under this Act on older individuals, including the impact on their dietary intake and opportunities for socialization;

(R) the adequacy of the daily recommended dietary allowances described in section 339; and

(S) the impact of transferring funds under section 308(b)(5) and how funds transferred under such section are expended to provide nutrition services.

(2)(A)(i) The Commissioner shall establish an advisory council to develop recommendations for guidelines on efficiency and quality in furnishing nutrition services described in subparts 1, 2, and 3 of part C of title III.

(ii) The council shall be composed of members appointed by the Commissioner from among individuals nominated by the Secretary of Agriculture, the American Dietetic Association, the Dietary Managers Association, the National Association of Nutrition and Aging Service Programs, the National Association of Meal Programs, the National Association of State Units on Aging, the National Association of Area Agencies on Aging, and other appropriate organizations.

(B) Not later than June 30, 1993, the Commissioner, in consultation with the Secretary of Agriculture and taking into consideration the recommendations of the council, shall publish interim guidelines of the kind described in subparagraph (A)(i).

(3) Not later than September 30, 1994, the Secretary shall—

(A) submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate recommendations and final guidelines to improve nutrition services provided under this Act; and

(B) require the Commissioner to implement such recommendations administratively, to the extent feasible.

(h) The Secretary may use such sums as may be necessary, but not to exceed \$3,000,000 (of which not to exceed \$1,500,000 shall be available from funds appropriated to carry out title III and not to exceed \$1,500,000 shall be available from funds appropriated to carry out title IV), to conduct directly evaluations under this section. No part of such sums may be reprogrammed, transferred, or used for any other purpose. Funds expended under this subsection shall be justified and accounted for by the Secretary.

(42 U.S.C. 3017)

#### REPORTS

SEC. 207. (a) Not later than one hundred and twenty days after the close of each fiscal year, the Commissioner shall prepare and submit to the President and to the Congress a full and complete report on the activities carried out under this Act. Such annual reports shall include—

(1) statistical data reflecting services and activities provided to individuals during the preceding fiscal year;

(2) statistical data collected under section 202(a)(19);

(3) an analysis of the information received under section 306(b)(2)(D) by the Commissioner;

(4) statistical data and an analysis of information regarding the effectiveness of the State agency and area agencies on aging in targeting services to older individuals with greatest economic need and older individuals with greatest social need, with particular attention to low-income minority individuals, low-income individuals, and frail individuals (including individuals with any physical or mental functional impairment); and

(5) a description of the implementation of the plan required by section 202(a)(17).

(b)(1) Not later than March 1 of each year, the Commissioner shall compile a report—

(A) summarizing and analyzing the data collected under titles III and VII in accordance with section 712(c) for the then most recently concluded fiscal year;

(B) identifying significant problems and issues revealed by such data (with special emphasis on problems relating to quality of care and residents' rights);

(C) discussing current issues concerning the long-term care ombudsman programs of the States; and

(D) making recommendations regarding legislation and administrative actions to resolve such problems.

(2) The Commissioner shall submit the report required by paragraph (1) to—

(A) the Select Committee on Aging of the House of Representatives;

(B) the Special Committee on Aging of the Senate;

(C) the Committee on Education and Labor of the House of Representatives; and

(D) the Committee on Labor and Human Resources of the Senate.

(3) The Commissioner shall provide the report required by paragraph (1), and make the State reports required under titles III and VII in accordance with section 712(h)(1) available, to—

(A) the Administrator of the Health Care Finance<sup>1</sup> Administration;

(B) the Office of the Inspector General of the Department of Health and Human Services;

(C) the Office of Civil Rights of the Department of Health and Human Services;

(D) the Secretary of Veterans Affairs; and

(E) each public agency or private organization designated as an Office of the State Long-Term Care Ombudsman under title III or VII in accordance with section 712(a)(4)(A).

(c) The Commissioner shall, as part of the annual report submitted under subsection (a), prepare and submit a report on the outreach activities supported under this Act, together with such recommendations as the Commissioner deems appropriate. In carrying out this subsection, the Commissioner shall consider—

(1) the number of older individuals reached through the activities;

<sup>1</sup>Error in amendment made by section 103(c) of Public Law 101-175. Should strike "Finance" and insert "Financing".

(2) the dollar amount of the assistance and benefits received by older individuals as a result of such activities;

(3) the cost of such activities in terms of the number of individuals reached and the dollar amount described in paragraph (2);

(4) the effect of such activities on supportive services and nutrition services furnished under title III of this Act; and

(5) the effectiveness of State and local efforts to target older individuals with greatest economic need (including low-income minority individuals) and older individuals with greatest social need (including low-income minority individuals) to receive services under this Act.

(42 U.S.C. 3018)

#### JOINT FUNDING OF PROJECTS

SEC. 208. Pursuant to regulations prescribed by the President and to the extent consistent with the other provisions of this Act, where funds are provided for a single project by more than one Federal agency to any agency or organization assisted under this Act, the Federal agency principally involved may be designated to act for all in administering the funds provided. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and any such agency may waive any technical grant or contract requirement (as defined by such regulations) which is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose.

(42 U.S.C. 3019)

#### ADVANCE FUNDING

SEC. 209. (a) For the purpose of affording adequate notice of funding available under this Act, appropriations under this Act are authorized to be included in the appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(b) In order to effect a transition to the advance funding method of timing appropriation action, subsection (a) shall apply notwithstanding that its initial application will result in the enactment in the same year (whether in the same appropriation Act or otherwise) of two separate appropriations, one for the then current fiscal year and one for the succeeding fiscal year.

(42 U.S.C. 3020)

#### APPLICATION OF OTHER LAWS

SEC. 210. (a) The provisions and requirements of the Act of December 5, 1974 (Public Law 93-510; 88 Stat. 1604) shall not apply to the administration of the provisions of this Act or to the administration of any program or activity under this Act.

(b) No part of the costs of any project under any title of this Act may be treated as income or benefits to any eligible individual (other than any wage or salary to such individual) for the purpose of any other program or provision of Federal or State law.

(42 U.S.C. 3020a)

#### REDUCTION OF PAPERWORK

SEC. 211. In order to reduce unnecessary, duplicative, or disruptive demands for information, the Commissioner, in consultation with State agencies and other appropriate agencies and organizations, shall continually review and evaluate all requests by the Administration for information under this Act and take such action as may be necessary to reduce the paperwork required under this Act. The Commissioner shall request only such information as the Commissioner deems essential to carry out the objectives and provisions of this Act and, in gathering such information, shall make use of uniform service definitions to the extent that such definitions are available.

(42 U.S.C. 3020b)

#### CONTRACTING AND GRANT AUTHORITY

SEC. 212. None of the provisions of this Act shall be construed to prevent a recipient of a grant or a contract from entering into an agreement, subject to the approval of the State agency (or in the case of a grantee under title VI, subject to the recommendation of the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging and the approval of the Commissioner), with a profitmaking organization to carry out the provisions of this Act and of the appropriate State plan.

(42 U.S.C. 3020c)

#### SURPLUS PROPERTY ELIGIBILITY

SEC. 213. Any State or local government agency, and any non-profit organization or institution, which receives funds appropriated for programs for older individuals under this Act, under title IV or title XX of the Social Security Act, or under titles VIII and X of the Economic Opportunity Act of 1964 and the Community Services Block Grant Act, shall be deemed eligible to receive for such programs, property which is declared surplus to the needs of the Federal Government in accordance with laws applicable to surplus property.

(42 U.S.C. 3020d)

#### SEC. 214. NUTRITION EDUCATION.

The Commissioner and the Secretary of Agriculture may provide technical assistance and appropriate material to agencies carrying out nutrition education programs in accordance with section 307(a)(13)(J).

(42 U.S.C. 3020e)

#### SEC. 215. AUTHORIZATION OF APPROPRIATIONS.

(a) ADMINISTRATION.—For purposes of carrying out this Act, there are authorized to be appropriated for the Administration such sums as may be necessary for fiscal years 1992, 1993, 1994, and 1995.

(b) SALARIES AND EXPENSES.—There are authorized to be appropriated for salaries and expenses of the Administration on Aging—

(1) \$17,000,000 for fiscal year 1992, \$20,000,000 for fiscal year 1993, \$24,000,000 for fiscal year 1994, and \$29,000,000 for fiscal year 1995; and

(2) such additional sums as may be necessary for each such fiscal year to enable the Commissioner to provide for not fewer than 300 full-time employees (or the equivalent thereof) in the Administration on Aging.

(42 U.S.C. 3020f)

### TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

#### PART A—GENERAL PROVISIONS

##### PURPOSE; ADMINISTRATION

SEC. 301. (a)(1) It is the purpose of this title to encourage and assist State agencies and area agencies on aging to concentrate resources in order to develop greater capacity and foster the development and implementation of comprehensive and coordinated systems to serve older individuals by entering into new cooperative arrangements in each State with the persons described in paragraph (2), for the planning, and for the provision of, supportive services, and multipurpose senior centers, in order to—

(A) secure and maintain maximum independence and dignity in a home environment for older individuals capable of self care with appropriate supportive services;

(B) remove individual and social barriers to economic and personal independence for older individuals;

(C) provide a continuum of care for vulnerable older individuals; and

(D) secure the opportunity for older individuals to receive managed in-home and community-based long-term care services.

(2) The persons referred to in paragraph (1) include—

(A) State agencies and area agencies on aging;

(B) other State agencies, including agencies that administer home and community care programs;

(C) Indian tribes, tribal organizations, and Native Hawaiian organizations;

(D) the providers, including voluntary organizations or other private sector organizations, of supportive services, nutrition services, and multipurpose senior centers; and

(E) organizations representing or employing older individuals or their families.

(b)(1) In order to effectively carry out the purpose of this title, the Commissioner shall administer programs under this title through the Administration.

(2) In carrying out the provisions of this title, the Commissioner may request the technical assistance and cooperation of the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of

Transportation, the Office of Community Services, the Department of Veterans Affairs, the Substance Abuse and Mental Health Services Administration, and such other agencies and departments of the Federal Government as may be appropriate.

(c) The Commissioner shall provide technical assistance and training (by contract, grant, or otherwise) to State long-term care ombudsman programs established under section 307(a)(12) in accordance with section 712, and to individuals within such programs designated under section 712 to be representatives of a long-term care ombudsman, in order to enable such ombudsmen and such representatives to carry out the ombudsman program effectively.

(42 U.S.C. 3021)

#### DEFINITIONS

SEC. 302. For the purpose of this title—

(1) The term “comprehensive and coordinated system” means a system for providing all necessary supportive services, including nutrition services, in a manner designed to—

(A) facilitate accessibility to, and utilization of, all supportive services and nutrition services provided within the geographic area served by such system by any public or private agency or organization;

(B) develop and make the most efficient use of supportive services and nutrition services in meeting the needs of older individuals;

(C) use available resources efficiently and with a minimum of duplication; and

(D) encourage and assist public and private entities that have unrealized potential for meeting the service needs of older individuals to assist the older individuals on a voluntary basis.

(2) The term “unit of general purpose local government” means—

(A) a political subdivision of the State whose authority is general and not limited to only one function or combination of related functions; or

(B) an Indian tribal organization.

(3) The term “education and training service” means a supportive service designed to assist older individuals to better cope with their economic, health, and personal needs through services such as consumer education, continuing education, health education, preretirement education, financial planning, and other education and training services which will advance the objectives of this Act.

(10)<sup>1</sup> The term “multipurpose senior center” means a community facility for the organization and provision of a broad spectrum of services, which shall include, but not be limited to, provision of health (including mental health), social, nutritional, and educational services and the provision of facilities for recreational activities for older individuals.

(42 U.S.C. 3022)

<sup>1</sup> Error in amendment made by section 102(b)(3)(A) of Public Law 102-375. This paragraph should be stricken. Section 102(a) of such Act inserted this definition in section 102 of this Act.

## AUTHORIZATION OF APPROPRIATIONS; USES OF FUNDS

SEC. 303. (a)(1) There are authorized to be appropriated \$461,376,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995, for the purpose of making grants under part B of this title (relating to supportive services and senior centers).

(2) Funds appropriated under paragraph (1) shall be available to carry out section 712.

(b)(1) There are authorized to be appropriated \$505,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995, for the purpose of making grants under subpart 1 of part C of this title (relating to congregate nutrition services).

(2) There are authorized to be appropriated \$120,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995, for the purpose of making grants under subpart 2 of part C of this title (relating to home delivered nutrition services).

(3) There are authorized to be appropriated \$15,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995, to carry out subpart 3 of part C of this title (relating to school-based meals for volunteer older individuals and multigenerational programs).

(c) Grants made under part B, and subparts 1 and 2 of part C, of this title may be used for paying part of the cost of—

(1) the administration of area plans by area agencies on aging designated under section 305(a)(2)(A), including the preparation of area plans on aging consistent with section 306 and the evaluation of activities carried out under such plans; and

(2) the development of comprehensive and coordinated systems for supportive services, congregate and home delivered nutrition services under subparts 1 and 2 of part C, the development and operation of multipurpose senior centers, and the delivery of legal assistance.

(d) There are authorized to be appropriated \$45,388,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995, for the purpose of making grants under part D of this title (relating to in-home services).

(e) There are authorized to be appropriated such sums as may be necessary for the fiscal years 1992, 1993, 1994, and 1995, to carry out part E (relating to special needs).

(f) There are authorized to be appropriated \$25,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995, for the purpose of making grants under part F of this title (relating to periodic preventive health, health education, and promotion services).

(g) There are authorized to be appropriated \$15,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995, to carry out part G (relating to supportive activities for caretakers).

## ALLOTMENT; FEDERAL SHARE

SEC. 304. (a)(1) Subject to paragraphs (2) and (3) from the sums appropriated under section 303 for each fiscal year, each State shall be allotted an amount which bears the same ratio to such sums as the population of older individuals in such State bears to the population of older individuals in all States, except that (A) no State shall be allotted less than one-half of 1 percent of the sum appropriated for the fiscal year for which the determination is made; (B) Guam, the United States Virgin Islands, and the Trust Territory of the Pacific Islands, shall each be allotted not less than one-fourth of 1 percent of the sum appropriated for the fiscal year for which the determination is made; and (C) American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than one-sixteenth of 1 percent of the sum appropriated for the fiscal year for which the determination is made. For the purposes of paragraph (3) and the exception contained in subparagraph (A) only, the term "State" does not include Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(2) No State shall be allotted less than the total amount allotted to the State under paragraph (1) of this subsection and section 308 for fiscal year 1987.

(3) No State shall be allotted, from the amount appropriated under section 303(g), less than \$50,000 for any fiscal year.

(4) The number of individuals aged 60 or older in any State and in all States shall be determined by the Commissioner on the basis of the most recent data available from the Bureau of the Census, and other reliable demographic data satisfactory to the Commissioner.

(b) Whenever the Commissioner determines that any amount allotted to a State under part B or C for a fiscal year under this section will not be used by such State for carrying out the purpose for which the allotment was made, the Commissioner shall make such allotment available for carrying out such purpose to one or more other States to the extent the Commissioner determines that such other State will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this title, be regarded as part of such State's allotment (as determined under subsection (a)) for such year, but shall remain available until the end of the succeeding fiscal year.

(c) If the Commissioner finds that any State has failed to qualify under the State plan requirements of section 307 or the Commissioner does not approve the funding formula required under section 305(a)(2)(C), the Commissioner shall withhold the allotment of funds to such State referred to in subsection (a). The Commissioner shall disburse the funds so withheld directly to any public or private nonprofit institution or organization, agency, or political subdivision of such State submitting an approved plan under section 307, which includes an agreement that any such payment

shall be matched in the proportion determined under subsection (d)(1)(D) for such State, by funds or in-kind resources from non-Federal sources.

(d)(1) From any State's allotment, after the application of section 308(b), under this section for any fiscal year—

(A) such amount as the State agency determines, but not more than 10 percent thereof, shall be available for paying such percentage as the agency determines, but not more than 75 percent, of the cost of administration of area plans;

(B) such amount (excluding any amount attributable to funds appropriated under section 303(a)(3)) as the State agency determines to be adequate for conducting an effective ombudsman program under section 307(a)(12) shall be available for conducting such program;

(C) not less than \$150,000 and not more than 4 percent of the amount allotted to the State for carrying out part B, shall be available for conducting outreach demonstration projects under section 706; and

(D) the remainder of such allotment shall be available to such State only for paying such percentage as the State agency determines, but not more than 85 percent of the cost of supportive services, senior centers, and nutrition services under this title provided in the State as part of a comprehensive and coordinated system in planning and service areas for which there is an area plan approved by the State agency.

(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Commissioner may attribute fair market value to services and facilities contributed from non-Federal sources.

(e) Grants made from allotments received under this title may be used for paying for the costs of providing for an area volunteer services coordinator (as described in section 306(a)(12)) or a State volunteer services coordinator (as described in section 307(a)(31)).

(42 U.S.C. 3024)

#### ORGANIZATION

SEC. 305. (a) In order for a State to be eligible to participate in programs of grants to States from allotments under this title—

(1) the State shall, in accordance with regulations of the Commissioner, designate a State agency as the sole State agency to—

(A) develop a State plan to be submitted to the Commissioner for approval under section 307;

(B) administer the State plan within such State;

(C) be primarily responsible for the planning, policy development, administration, coordination, priority setting, and evaluation of all State activities related to the objectives of this Act;

(D) serve as an effective and visible advocate for older individuals by reviewing and commenting upon all State plans, budgets, and policies which affect older individuals and providing technical assistance to any agency, organiza-

tion, association, or individual representing the needs of older individuals; and

(E) divide the State into distinct planning and service areas (or in the case of a State specified in subsection (b)(5)(A), designate the entire State as a single planning and service area), in accordance with guidelines issued by the Commissioner, after considering the geographical distribution of older individuals in the State, the incidence of the need for supportive services, nutrition services, multipurpose senior centers, and legal assistance, the distribution of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such areas, the distribution of older individuals who have greatest social need (with particular attention to low-income minority individuals) residing in such areas, the distribution of older individuals who are Indians residing in such areas, the distribution of resources available to provide such services or centers, the boundaries of existing areas within the State which were drawn for the planning or administration of supportive services programs, the location of units of general purpose local government within the State, and any other relevant factors; and

(2) the State agency shall—

(A) except as provided in subsection (b)(5), designate for each such area after consideration of the views offered by the unit or units of general purpose local government in such area, a public or private nonprofit agency or organization as the area agency on aging for such area;

(B) provide assurances, satisfactory to the Commissioner, that the State agency will take into account, in connection with matters of general policy arising in the development and administration of the State plan for any fiscal year, the views of recipients of supportive services or nutrition services, or individuals using multipurpose senior centers provided under such plan;

(C) in consultation with area agencies, in accordance with guidelines issued by the Commissioner, and using the best available data, develop and publish for review and comment a formula for distribution within the State of funds received under this title that takes into account—

(i) the geographical distribution of older individuals in the State; and

(ii) the distribution among planning and service areas of older individuals with greatest economic need and older individuals with greatest social need, with particular attention to low-income minority older individuals;

(D) submit its formula developed under subparagraph (C) to the Commissioner for approval;

(E) provide assurance that preference will be given to providing services to older individuals with greatest economic need and older individuals with greatest social need, with particular attention to low-income minority individ-

uals, and include proposed methods of carrying out the preference in the State plan;

(F) provide assurances that the State agency will require use of outreach efforts described in section 307(a)(24); and

(G)(i) set specific objectives, in consultation with area agencies on aging, for each planning and service area for providing services funded under this title to low-income minority older individuals;

(ii) provide an assurance that the State agency will undertake specific program development, advocacy, and outreach efforts focused on the needs of low-income minority older individuals; and

(iii) provide a description of the efforts described in clause (ii) that will be undertaken by the State agency.

(b)(1) In carrying out the requirement of subsection (a)(1), the State may designate as a planning and service area any unit of general purpose local government which has a population of 100,000 or more. In any case in which a unit of general purpose local government makes application to the State agency under the preceding sentence to be designated as a planning and service area, the State agency shall, upon request, provide an opportunity for a hearing to such unit of general purpose local government. A State may designate as a planning and service area under clause (1) of subsection (a)<sup>1</sup> any region within the State recognized for purposes of areawide planning which includes one or more such units of general purpose local government when the State determines that the designation of such a regional planning and service area is necessary for, and will enhance, the effective administration of the programs authorized by this title. The State may include in any planning and service area designated under clause (1) of subsection (a)<sup>1</sup> such additional areas adjacent to the unit of general purpose local government or regions so designated as the State determines to be necessary for, and will enhance the effective administration of the programs authorized by this title.

(2) The State is encouraged in carrying out the requirement of clause (1) of subsection (a)<sup>1</sup> to include the area covered by the appropriate economic development district involved in any planning and service area designated under subsection (a)(1), and to include all portions of an Indian reservation within a single planning and service area, if feasible.

(3) The chief executive officer of each State in which a planning and service area crosses State boundaries, or in which an interstate Indian reservation is located, may apply to the Commissioner to request redesignation as an interstate planning and service area comprising the entire metropolitan area or Indian reservation. If the Commissioner approves such an application, the Commissioner shall adjust the State allotments of the areas within the planning and service area in which the interstate planning and service area is established to reflect the number of older individuals within the area who will be served by an interstate planning and service area not within the State.

<sup>1</sup> Should strike "clause (1) of subsection (a)" and insert "subsection (a)(1)".

(4) Whenever a unit of general purpose local government, a region, a metropolitan area or an Indian reservation is denied designation under the provisions of subsection (a)(1), such unit of general purpose local government, region, metropolitan area, or Indian reservation may appeal the decision of the State agency to the Commissioner. The Commissioner shall afford such unit, region, metropolitan area, or Indian reservation an opportunity for a hearing. In carrying out the provisions of this paragraph, the Commissioner may approve the decision of the State agency, disapprove the decision of the State agency and require the State agency to designate the unit, region, area, or Indian reservation appealing the decision as a planning and service area, or take such other action as the Commissioner deems appropriate.

(5)(A) A State which on or before October 1, 1980, had designated, with the approval of the Commissioner, a single planning and service area covering all of the older individuals in the State, in which the State agency was administering the area plan, may after that date designate one or more additional planning and service areas within the State to be administered by public or private nonprofit agencies or organizations as area agencies on aging, after considering the factors specified in subsection (a)(1)(E). The State agency shall continue to perform the functions of an area agency on aging for any area of the State not included in a planning and service area for which an area agency on aging has been designated.

(B) Whenever a State agency designates a new area agency on aging after the date of enactment of the Older Americans Act Amendments of 1984, the State agency shall give the right to first refusal to a unit of general purpose local government if (i) such unit can meet the requirements of subsection (c), and (ii) the boundaries of such a unit and the boundaries of the area are reasonably contiguous.

(C)(i) A State agency shall establish and follow appropriate procedures to provide due process to affected parties, if the State agency initiates an action or proceeding to—

(I) revoke the designation of the area agency on aging under subsection (a);

(II) designate an additional planning and service area in a State;

(III) divide the State into different planning and services areas; or

(IV) otherwise affect the boundaries of the planning and service areas in the State.

(ii) The procedures described in clause (i) shall include procedures for—

(I) providing notice of an action or proceeding described in clause (i);

(II) documenting the need for the action or proceeding;

(III) conducting a public hearing for the action or proceeding;

(IV) involving area agencies on aging, service providers, and older individuals in the action or proceeding; and

(V) allowing an appeal of the decision of the State agency in the action or proceeding to the Commissioner.

(iii) An adversely affected party involved in an action or proceeding described in clause (i) may bring an appeal described in clause (ii)(V) on the basis of—

(I) the facts and merits of the matter that is the subject of the action or proceeding; or

(II) procedural grounds.

(iv) In deciding an appeal described in clause (ii)(V), the Commissioner may affirm or set aside the decision of the State agency. If the Commissioner sets aside the decision, and the State agency has taken an action described in subclauses (I) through (III) of clause (i), the State agency shall nullify the action.

(c) An area agency on aging designated under subsection (a) shall be—

(1) an established office of aging which is operating within a planning and service area designated under subsection (a);

(2) any office or agency of a unit of general purpose local government, which is designated to function only for the purpose of serving as an area agency on aging by the chief elected official of such unit;

(3) any office or agency designated by the appropriate chief elected officials of any combination of units of general purpose local government to act only on behalf of such combination for such purpose;

(4) any public or nonprofit private agency in a planning and service area, or any separate organizational unit within such agency, which is under the supervision or direction for this purpose of the designated State agency and which can and will engage only in the planning or provision of a broad range of supportive services, or nutrition services within such planning and service area; or

(5) in the case of a State specified in subsection (b)(5), the State agency;

and shall provide assurance, determined adequate by the State agency, that the area agency on aging will have the ability to develop an area plan and to carry out, directly or through contractual or other arrangements, a program in accordance with the plan within the planning and service area. In designating an area agency on aging within the planning and service area or within any unit of general purpose local government designated as a planning and service area the State shall give preference to an established office on aging, unless the State agency finds that no such office within the planning and service area will have the capacity to carry out the area plan.

(d) The publication for review and comment required by paragraph (2)(C) of subsection (a) shall include—

(1) a descriptive statement of the formula's assumptions and goals, and the application of the definitions of greatest economic or social need,

(2) a numerical statement of the actual funding formula to be used,

(3) a listing of the population, economic, and social data to be used for each planning and service area in the State, and

(4) a demonstration of the allocation of funds, pursuant to the funding formula, to each planning and service area in the State.

(42 U.S.C. 3025)

#### AREA PLANS

SEC. 306. (a) Each area agency on aging designated under section 305(a)(2)(A) shall, in order to be approved by the State agency, prepare and develop an area plan for a planning and service area for a two-, three-, or four-year period determined by the State agency, with such annual adjustments as may be necessary. Each such plan shall be based upon a uniform format for area plans within the State prepared in accordance with section 307(a)(1). Each such plan shall—

(1) provide, through a comprehensive and coordinated system, for supportive services, nutrition services, and, where appropriate, for the establishment, maintenance, or construction of multipurpose senior centers, within the planning and service area covered by the plan, including determining the extent of need for supportive services, nutrition services, and multipurpose senior centers in such area (taking into consideration, among other things, the number of older individuals with low incomes residing in such area, the number of older individuals who have greatest economic need (with particular attention to low-income minority individuals) residing in such area, the number of older individuals who have greatest social need (with particular attention to low-income minority individuals) residing in such area, and the number of older individuals who are Indians residing in such area, and the efforts of voluntary organizations in the community), evaluating the effectiveness of the use of resources in meeting such need, and entering into agreements with providers of supportive services, nutrition services, or multipurpose senior centers in such area, for the provision of such services or centers to meet such need;

(2) provide assurances that an adequate proportion, as required under section 307(a)(22), of the amount allotted for part B to the planning and service area will be expended for the delivery of each of the following categories of services—

(A) services associated with access to services (transportation, outreach, information and assistance, and case management services);

(B) in-home services (homemaker and home health aides, visiting and telephone reassurance, chore maintenance, and supportive services for families of older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction; and

(C) legal assistance;

and specify annually in such plan, as submitted or as amended, in detail the amount of funds expended for each such category during the fiscal year most recently concluded;

(3)(A) designate, where feasible, a focal point for comprehensive service delivery in each community, giving special

consideration to designating multipurpose senior centers (including multipurpose senior centers operated by organizations referred to in paragraph (6)(E)(ii)) as such focal point; and

(B) specify, in grants, contracts, and agreements implementing the plan, the identity of each focal point so designated;

(4) provide for the establishment and maintenance of information and assistance services in sufficient numbers to assure that all older individuals within the planning and service area covered by the plan will have reasonably convenient access to such services, with particular emphasis on linking services available to isolated older individuals and older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction (and the caretakers of individuals with such disease or disorders);

(5)(A)(i) provide assurances that the area agency on aging will set specific objectives for providing services to older individuals with greatest economic need and older individuals with greatest social need, include specific objectives for providing services to low-income minority individuals, and include proposed methods of carrying out the preference in the area plan;

(ii) provide assurances that the area agency on aging will include in each agreement made with a provider of any service under this title, a requirement that such provider will—

(I) specify how the provider intends to satisfy the service needs of low-income minority individuals in the area served by the provider;

(II) to the maximum extent feasible, provide services to low-income minority individuals in accordance with their need for such services; and

(III) meet specific objectives established by the area agency on aging, for providing services to low-income minority individuals within the planning and service area; and

(iii) with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

(I) identify the number of low-income minority older individuals in the planning and service area;

(II) describe the methods used to satisfy the service needs of such minority older individuals; and

(III) provide information on the extent to which the area agency on aging met the objectives described in clause (i);

(B)<sup>1</sup> provide assurances that the area agency on aging will use outreach efforts that will—

(i)<sup>1</sup> identify individuals eligible for assistance under this Act, with special emphasis on—

(I)<sup>1</sup> older individuals residing in rural areas;

(II)<sup>1</sup> older individuals with greatest economic need (with particular attention to low-income minority individuals);

<sup>1</sup>Errors in amendment made by section 306(c)(2)(B) of Public Law 102-375. Subparagraph (B), clauses (i) and (ii), and subclauses (I) through (VI) should each be amended to move their left margins 2-ems to the left.

(III)<sup>1</sup> older individuals with greatest social need (with particular attention to low-income minority individuals);

(IV)<sup>1</sup> older individuals with severe disabilities;

(V)<sup>1</sup> older individuals with limited English-speaking ability; and

(VI)<sup>1</sup> older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and

(ii)<sup>1</sup> inform the older individuals referred to in subclauses (I) through (VI) of clause (i), and the caretakers of such individuals, of the availability of such assistance; and

(C) contain an assurance that the area agency on aging will ensure that each activity undertaken by the agency, including planning, advocacy, and systems development, will include a focus on the needs of low-income minority older individuals;

(6) provide that the area agency on aging will—

(A) conduct periodic evaluations of, and public hearings on, activities carried out under the area plan and an annual evaluation of the effectiveness of outreach conducted under paragraph (5)(B);

(B) furnish appropriate technical assistance, and timely information in a timely manner, to providers of supportive services, nutrition services, or multipurpose senior centers in the planning and service area covered by the area plan;

(C) take into account in connection with matters of general policy arising in the development and administration of the area plan, the views of recipients of services under such plan;

(D) serve as the advocate and focal point for older individuals within the community by (in cooperation with agencies, organizations, and individuals participating in activities under the plan) monitoring, evaluating, and commenting upon all policies, programs, hearings, levies, and community actions which will affect older individuals;

(E)(i) where possible, enter into arrangements with organizations providing day care services for children or adults, and respite for families, so as to provide opportunities for older individuals to aid or assist on a voluntary basis in the delivery of such services to children, adults, and families; and

(ii) if possible regarding the provision of services under this title, enter into arrangements and coordinate with organizations that have a proven record of providing services to older individuals, that—

<sup>1</sup>Errors in amendment made by section 306(c)(2)(B) of Public Law 102-375. Subparagraph (B), clauses (i) and (ii), and subclauses (I) through (VI) should each be amended to move their left margins 2-ems to the left.

(I) were officially designated as community action agencies or community action programs under section 210 of the Economic Opportunity Act of 1964 (42 U.S.C. 2790) for fiscal year 1981, and did not lose the designation as a result of failure to comply with such Act; or

(II) came into existence during fiscal year 1982 as direct successors in interest to such community action agencies or community action programs;

and that meet the requirements under section 675(c)(3) of the Community Services Block Grant Act (42 U.S.C. 9904(c)(3));

(F) establish an advisory council consisting of older individuals (including minority individuals) who are participants or who are eligible to participate in programs assisted under this Act, representatives of older individuals, local elected officials, providers of veterans' health care (if appropriate), and the general public, to advise continuously the area agency on aging on all matters relating to the development of the area plan, the administration of the plan and operations conducted under the plan;

(G) develop and publish methods by which priority of services is determined, particularly with respect to the delivery of services under paragraph (2);

(H) establish effective and efficient procedures for coordination of—

(i) entities conducting programs that receive assistance under this Act within the planning and service area served by the agency; and

(ii) entities conducting other Federal programs for older individuals at the local level, with particular emphasis on entities conducting programs described in section 203(b), within the area;

(I) conduct efforts to facilitate the coordination of community-based, long-term care services designed to retain individuals in their homes, thereby deferring unnecessary, costly institutionalization, and designed to include the development of case management services as a component of the long-term care services;

(J) identify the public and private nonprofit entities involved in the prevention, identification, and treatment of the abuse, neglect, and exploitation of older individuals, and based on such identification, determine the extent to which the need for appropriate services for such individuals is unmet;

(K) facilitate the involvement of long-term care providers in the coordination of community-based long-term care services and work to ensure community awareness of and involvement in addressing the needs of residents of long-term care facilities;

(L) coordinate the categories of services specified in paragraph (2) for which the area agency on aging is required to expend funds under part B, with activities of community-based organizations established for the benefit

of victims of Alzheimer's disease and the families of such victims;

(M) coordinate any mental health services provided with funds expended by the area agency on aging for part B with the mental health services provided by community health centers and by other public agencies and nonprofit private organizations;

(N) if there is a significant population of older individuals who are Indians in the planning and service area of the area agency on aging, the area agency on aging shall conduct outreach activities to identify such individuals in such area and shall inform such individuals of the availability of assistance under this Act;

(O)(i) compile available information on institutions of higher education in the planning and service area regarding—

(I) the courses of study offered to older individuals by such institutions; and

(II) the policies of such institutions with respect to the enrollment of older individuals with little or no payment of tuition, on a space available basis, or on another special basis;

and include in such compilation such related supplementary information as may be necessary; and

(ii) based on the results of such compilation, make a summary of such information available to older individuals at multipurpose senior centers, congregate nutrition sites, and other appropriate places;

(P) establish a grievance procedure for older individuals who are dissatisfied with or denied services under this title;

(Q) enter into voluntary arrangements with nonprofit entities (including public and private housing authorities and organizations) that provide housing (such as housing under section 202 of the Housing Act of 1959 (12 U.S.C. 1701Q)) to older individuals, to provide—

(i) leadership and coordination in the development, provision, and expansion of adequate housing, supportive services, referrals, and living arrangements for older individuals; and

(ii) advance notification and nonfinancial assistance to older individuals who are subject to eviction from such housing;

(R) list the telephone number of the agency in each telephone directory that is published, by the provider of local telephone service, for residents in any geographical area that lies in whole or in part in the service and planning area served by the agency—

(i) under the name "Area Agency on Aging";

(ii) in the unclassified section of the directory; and

(iii) to the extent possible, in the classified section of the directory, under a subject heading designated by the Commissioner by regulation; and

(S) identify the needs of older individuals and describe methods the area agency on aging will use to coordinate planning and delivery of transportation services (including the purchase of vehicles) to assist older individuals, including those with special needs, in the area;

(7) provide assurances that any amount received under part D will be expended in accordance with such part;

(8) provide assurances that any amount received under part E will be expended in accordance with such part;

(9) provide assurances that any amount received under part F will be expended in accordance with such part;

(10) provide assurances that any amount received under part G will be expended in accordance with such part;

(11) provide assurances that the area agency on aging, in carrying out the State Long-Term Care Ombudsman program under section 307(a)(12), will expend not less than the total amount of funds appropriated under this Act and expended by the agency in fiscal year 1991 in carrying out such a program under this title;

(12) in the discretion of the area agency on aging, provide for an area volunteer services coordinator, who shall—

(A) encourage, and enlist the services of, local volunteer groups to provide assistance and services appropriate to the unique needs of older individuals within the planning and service area;

(B) encourage, organize, and promote the use of older individuals as volunteers to local communities within the area; and

(C) promote the recognition of the contribution made by volunteers to programs administered under the area plan;

(13)(A) describe all activities of the area agency on aging, whether funded by public or private funds; and

(B) provide an assurance that the activities conform with—  
(i) the responsibilities of the area agency on aging, as set forth in this subsection; and

(ii) the laws, regulations, and policies of the State served by the area agency on aging;

(14) provide assurances that the area agency on aging will—

(A) maintain the integrity and public purpose of services provided, and service providers, under this title in all contractual and commercial relationships;

(B) disclose to the Commissioner and the State agency—

(i) the identity of each nongovernmental entity with which such agency has a contract or commercial relationship relating to providing any service to older individuals; and

(ii) the nature of such contract or such relationship;

(C) demonstrate that a loss or diminution in the quantity or quality of the services provided, or to be provided,

under this title by such agency has not resulted and will not result from such contract or such relationship;

(D) demonstrate that the quantity or quality of the services to be provided under this title by such agency will be enhanced as a result of such contract or such relationship; and

(E) on the request of the Commissioner or the State, for the purpose of monitoring compliance with this Act (including conducting an audit), disclose all sources and expenditures of funds such agency receives or expends to provide services to older individuals;

(15) provide assurances that funds received under this title will not be used to pay any part of a cost (including an administrative cost) incurred by the area agency on aging to carry out a contract or commercial relationship that is not carried out to implement this title;

(16) provide assurances that preference in receiving services under this title will not be given by the area agency on aging to particular older individuals as a result of a contract or commercial relationship that is not carried out to implement this title;

(17) provide assurances that projects in the planning and service area will reasonably accommodate participants as described in section 307(a)(13)(G);

(18) provide assurances that the area agency on aging will, to the maximum extent practicable, coordinate the services it provides under this title with services provided under title VI;

(19)(A) provide an assurance that the area agency on aging will pursue activities to increase access by older individuals who are Native Americans to all aging programs and benefits provided by the agency, including programs and benefits under this title, if applicable; and

(B) specify the ways in which the area agency on aging intends to implement the activities; and

(20) provide that case management services provided under this title through the area agency on aging will—

(A) not duplicate case management services provided through other Federal and State programs;

(B) be coordinated with services described in subparagraph (A); and

(C) be provided by—

(i) a public agency; or

(ii) a nonprofit private agency that—

(I) does not provide, and does not have a direct or indirect ownership or controlling interest in, or a direct or indirect affiliation or relationship with, an entity that provides, services other than case management services under this title; or

(II) is located in a rural area and obtains a waiver of the requirement described in subclause (I).

(b)(1) Each State, in approving area agency on aging plans under this section, shall waive the requirement described in paragraph (2) of subsection (a) for any category of services described in

such paragraph if the area agency on aging demonstrates to the State agency that services being furnished for such category in the area are sufficient to meet the need for such services in such area.

(2)(A) Before an area agency on aging requests a waiver under paragraph (1) of this subsection, the area agency on aging shall conduct a timely public hearing in accordance with the provisions of this paragraph. The area agency on aging requesting a waiver shall notify all interested parties in the area of the public hearing and furnish the interested parties with an opportunity to testify.

(B) The area agency on aging shall prepare a record of the public hearing conducted pursuant to subparagraph (A) and shall furnish the record of the public hearing with the request for a waiver made to the State under paragraph (1).

(C) Whenever the State agency proposes to grant a waiver to an area agency on aging under this subsection, the State agency shall publish the intention to grant such a waiver together with the justification for the waiver at least 30 days prior to the effective date of the decision to grant the waiver. An individual or a service provider from the area with respect to which the proposed waiver applies is entitled to request a hearing before the State agency on the request to grant such waiver. If, within the 30-day period described in the first sentence of this subparagraph, an individual or service provider requests a hearing under this subparagraph, the State agency shall afford such individual or provider an opportunity for a hearing.

(D) If the State agency waives the requirement described in paragraph (2) of subsection (a), the State agency shall provide to the Commissioner—

(i) a report regarding such waiver that details the demonstration made by the area agency on aging to obtain such waiver;

(ii) a copy of the record of the public hearing conducted pursuant to subparagraph (A); and

(iii) a copy of the record of any public hearing conducted pursuant to subparagraph (C).

(c)(1) Subject to regulations prescribed by the Commissioner, an area agency on aging designated under section 305(a)(2)(A) or, in areas of a State where no such agency has been designated, the State agency, may enter into agreement with agencies administering programs under the Rehabilitation Act of 1973, and titles XIX and XX of the Social Security Act for the purpose of developing and implementing plans for meeting the common need for transportation services of individuals receiving benefits under such Acts and older individuals participating in programs authorized by this title.

(2) In accordance with an agreement entered into under paragraph (1), funds appropriated under this title may be used to purchase transportation services for older individuals and may be pooled with funds made available for the provision of transportation services under the Rehabilitation Act of 1973, and titles XIX and XX of the Social Security Act.

(d) An area agency on aging may not require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.

(e)(1) If the head of a State agency finds that an area agency on aging has failed to comply with Federal or State laws, including the area plan requirements of this section, regulations, or policies, the State may withhold a portion of the funds to the area agency on aging available under this title.

(2)(A) The head of a State agency shall not make a final determination withholding funds under paragraph (1) without first affording the area agency on aging due process in accordance with procedures established by the State agency.

(B) At a minimum, such procedures shall include procedures for—

(i) providing notice of an action to withhold funds;

(ii) providing documentation of the need for such action;

and

(iii) at the request of the area agency on aging, conducting a public hearing concerning the action.

(3)(A) If a State agency withholds the funds, the State agency may use the funds withheld to directly administer programs under this title in the planning and service area served by the area agency on aging for a period not to exceed 180 days, except as provided in subparagraph (B).

(B) If the State agency determines that the area agency on aging has not taken corrective action, or if the State agency does not approve the corrective action, during the 180-day period described in subparagraph (A), the State agency may extend the period for not more than 90 days.

(42 U.S.C. 3026)

#### STATE PLANS

SEC. 307. (a) Except as provided in the succeeding sentence and section 309(a), each State, in order to be eligible for grants from its allotment under this title for any fiscal year, shall submit to the Commissioner a State plan for a two-, three-, or four-year period determined by the State agency, with such annual revisions as are necessary, which meets such criteria as the Commissioner may by regulation prescribe. If the Commissioner determines, in the discretion of the Commissioner, that a State failed in 2 successive years to comply with the requirements under this title, then the State shall submit to the Commissioner a State plan for a 1-year period that meets such criteria, for subsequent years until the Commissioner determines that the State is in compliance with such requirements. Each such plan shall comply with all of the following requirements:

(1) The plan shall contain assurances that the State plan will be based upon area plans developed by area agencies on aging within the State designated under section 305(a)(2)(A) and that the State will prepare and distribute a uniform format for use by area agencies on aging in developing area plans under section 306.

(2) The plan shall provide that each area agency on aging designated under section 305(a)(2)(A) will develop and submit to the State agency for approval an area plan which complies with the provisions of section 306.

(3)(A) The plan shall provide that the State agency will evaluate the need for supportive services (including legal assistance and transportation services), nutrition services, and multipurpose senior centers within the State and determine the extent to which existing public or private programs meet such need. To conduct the evaluation, the State agency shall use the procedures implemented under section 202(a)(29).

(B) The plan shall provide assurances that the State agency will spend in each fiscal year, for services to older individuals residing in rural areas in the State assisted under this title, an amount equal to not less than 105 percent of the amount expended for such services (including amounts expended under title V and title VII) in fiscal year 1978.

(4) The plan shall provide for the use of such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Commissioner shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient administration of the plan, and, where necessary, provide for the reorganization and reassignment of functions to assure such efficient administration.

(5) The plan shall provide that the State agency will afford an opportunity for a hearing upon request to any agency on aging submitting a plan under this title, to any provider of a service under such a plan, or to any applicant to provide a service under such a plan. The State agency shall establish and publish procedures for requesting and conducting such hearing.

(6) The plan shall provide that the State agency will make such reports, in such form, and containing such information, as the Commissioner may require, and comply with such requirements as the Commissioner may impose to insure the correctness of such reports.

(7)(A) The plan shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this title to the State, including any such funds paid to the recipients of a grant or contract.

(B) The plan shall provide assurances that—

(i) no individual (appointed or otherwise) involved in the designation of the State agency or an area agency on aging, or in the designation of the head of any subdivision of the State agency or of an area agency on aging, is subject to a conflict of interest prohibited under this Act;

(ii) no officer, employee, or other representative of the State agency or an area agency on aging is subject to a conflict of interest prohibited under this Act; and

(iii) mechanisms are in place to identify and remove conflicts of interest prohibited under this Act.

(C) The plan shall provide assurances that the State agency and each area agency on aging will—

(i) maintain the integrity and public purpose of services provided, and service providers, under the State plan in all contractual and commercial relationships;

(ii) disclose to the Commissioner—

(I) the identity of each nongovernmental entity with which the State agency or area agency on aging has a contract or commercial relationship relating to providing any service to older individuals; and

(II) the nature of such contract or such relationship;

(iii) demonstrate that a loss or diminution in the quantity or quality of the services provided, or to be provided, under this Act by such agency has not resulted and will not result from such contract or such relationship;

(iv) demonstrate that the quantity or quality of the services to be provided under the State plan will be enhanced as a result of such contract or such relationship; and

(v) on the request of the Commissioner, for the purpose of monitoring compliance with this Act (including conducting an audit), disclose all sources and expenditures of funds the State agency and area agency on aging receive or expend to provide services to older individuals.

(8) The plan shall provide that the State agency will conduct periodic evaluations of, and public hearings on, activities and projects carried out under the State plan, including an evaluation of the effectiveness of the State agency in reaching older individuals with greatest economic need and older individuals with greatest social need, with particular attention to low-income minority individuals. In conducting such evaluations and public hearings, the State agency shall solicit the views and experiences of entities that are knowledgeable about the needs and concerns of low-income minority older individuals.

(9) The plan shall provide for establishing and maintaining information and assistance services in sufficient numbers to assure that all older individuals in the State who are not furnished adequate information and assistance services under section 306(a)(4) will have reasonably convenient access to such services.

(10) The plan shall provide that no supportive services, nutrition services, or in-home services (as defined in section 342) will be directly provided by the State agency or an area agency on aging, except where, in the judgment of the State agency, provision of such services by the State agency or an area agency on aging is necessary to assure an adequate supply of such services, or where such services are directly related to such State or area agency on aging's administrative functions, or where such services of comparable quality can be provided more economically by such State or area agency on aging.

(11) The plan shall provide that subject to the requirements of merit employment systems of State and local governments—

(A) preference shall be given to older individuals; and

(B) special consideration shall be given to individuals with formal training in the field of aging (including an educational specialty or emphasis in aging and a training degree or certificate in aging) or equivalent professional experience in the field of aging;

for any staff positions (full time or part time) in State and area agencies for which such individuals qualify.

(12) The plan shall provide assurances that the State agency will carry out, through the Office of the State Long-Term Care Ombudsman, a State Long-Term Care Ombudsman program in accordance with section 712 and this title.

(13) The plan shall provide with respect to nutrition services that—

(A) each project providing nutrition services will be available to older individuals and to their spouses, and may be made available to handicapped or disabled individuals who have not attained 60 years of age but who reside in housing facilities occupied primarily by older individuals at which congregate nutrition services are provided;

(B) primary consideration shall be given to the provision of meals in a congregate setting, except that each area agency on aging (i) may award funds made available under this title (other than under section 303(b)(3)) to organizations for the provision of home delivered meals to older individuals in accordance with the provisions of subpart 2 of part C, based upon a determination of need made by the recipient of a grant or contract entered into under this title, without requiring that such organizations also provide meals to older individuals in a congregate setting; and (ii) shall, in awarding such funds, select such organizations in a manner which complies with the provisions of subparagraph (H);

(C)(i) each project will permit recipients of grants or contracts to solicit voluntary contributions for meals furnished in accordance with guidelines established by the Commissioner, taking into consideration the income ranges of eligible individuals in local communities and other sources of income of the recipients of a grant or contract; and (ii) such voluntary contributions will be used to increase the number of meals served by the project involved, to facilitate access to such meals, and to provide other supportive services directly related to nutrition services;

(D) in the case of meals served in a congregate setting, a site for such services and for comprehensive supportive services is furnished in as close proximity to the majority of eligible individuals' residences as feasible, with particular attention upon a multipurpose senior center, a school, a church, or other appropriate community facility, preferably within walking distance where possible, and where appropriate, transportation to such site is furnished;

(E) each project will establish outreach activities which assure that the maximum number of eligible individuals may have an opportunity to participate;

(F) each project will establish and administer the nutrition project with the advice of dietitians (or individuals with comparable expertise), persons competent in the field of service in which the nutrition project is being provided, older individuals who will participate in the program, and of persons who are knowledgeable with regard to the needs of older individuals;

(G) each project will provide special menus, where feasible and appropriate to meet the particular dietary needs arising from the health requirements, religious requirements, or ethnic backgrounds of eligible individuals;

(H) each area agency on aging will give consideration where feasible, in the furnishing of home delivered meals to the use of organizations which (i) have demonstrated an ability to provide home delivered meals efficiently and reasonably; and (ii) furnish assurances to the area agency on aging that such an organization will maintain efforts to solicit voluntary support and that the funds made available under this title to the organization will not be used to supplant funds from non-Federal sources;

(I) each area agency on aging shall establish procedures that will allow nutrition project administrators the option to offer a meal, on the same basis as meals are provided to participating older individuals, to individuals providing volunteer services during the meal hours, and to individuals with disabilities who reside at home with and accompany older individuals who are eligible under this Act;

(J) each nutrition project shall provide nutrition education on at least a semiannual basis to participants in programs described in part C;

(K) each project shall comply with applicable provisions of State or local laws regarding the safe and sanitary handling of food, equipment, and supplies used in the storage, preparation, service, and delivery of meals to an older individual;

(L) the State agency will monitor, coordinate, and assist in the planning of nutritional services, with the advice of a dietitian or an individual with comparable expertise; and

(M) the State agency will—

(i) develop nonfinancial criteria for eligibility to receive nutrition services under section 336; and

(ii) periodically evaluate recipients of such services to determine whether they continue to meet such criteria.

(14) The plan shall provide, with respect to the acquisition (in fee simple or by lease for 10 years or more), alteration, or renovation of existing facilities (or the construction of new facilities in any area in which there are no suitable structures available, as determined by the State agency, after full consideration of the recommendations made by area agencies on aging, to be a focal point for the delivery of services assisted under this title) to serve as multipurpose senior centers, that—

(A) the plan contains or is supported by reasonable assurances that (i) for not less than 10 years after acquisition, or not less than 20 years after the completion of construction, the facility will be used for the purpose for which it is to be acquired or constructed, unless for unusual circumstances the Commissioner waives the requirement of this division; (ii) sufficient funds will be available to meet the non-Federal share of the cost of acquisition or construction of the facility; (iii) sufficient funds will be available when acquisition or construction is completed, for effective use of the facility for the purpose for which it is being acquired or constructed; and (iv) the facility will not be used and is not intended to be used for sectarian instruction or as a place for religious worship;

(B) the plan contains or is supported by reasonable assurances that, in the case of purchase or construction, there are no existing facilities in the community suitable for leasing as a multipurpose senior center;

(C) the plans and specifications for the facility are in accordance with regulations relating to minimum standards of construction, promulgated with particular emphasis on securing compliance with the requirements of the Act of August 12, 1968, commonly known as the Architectural Barriers Act of 1968;

(D) the plan contains or is supported by adequate assurance that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on the facility will be paid wages at rates not less than those prevailing for similar work in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, commonly known as the Davis-Bacon Act), and the Secretary of Labor shall have, with respect to the labor standards specified in this subparagraph, the authority and functions set forth in reorganization plan numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267), and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c); and

(E) the plan contains assurances that the State agency will consult with the Secretary of Housing and Urban Development with respect to the technical adequacy of any proposed alteration or renovation.

(15) The plan shall provide that with respect to legal assistance—

(A) the plan contains assurances that area agencies on aging will (i) enter into contracts with providers of legal assistance which can demonstrate the experience or capacity to deliver legal assistance; (ii) include in any such contract provisions to assure that any recipient of funds under division (i) will be subject to specific restrictions and regulations promulgated under the Legal Services Corporation Act (other than restrictions and regulations governing eligibility for legal assistance under such Act and governing membership of local governing boards) as determined appropriate by the Commissioner; and (iii) attempt to involve

the private bar in legal assistance activities authorized under this title, including groups within the private bar furnishing services to older individuals on a pro bono and reduced fee basis;

(B) the plan contains assurances that no legal assistance will be furnished unless the grantee administers a program designed to provide legal assistance to older individuals with social or economic need and has agreed, if the grantee is not a Legal Services Corporation project grantee, to coordinate its services with existing Legal Services Corporation projects in the planning and service area in order to concentrate the use of funds provided under this title on individuals with the greatest such need; and the area agency on aging makes a finding, after assessment, pursuant to standards for service promulgated by the Commissioner, that any grantee selected is the entity best able to provide the particular services;

(C) the State agency will provide for the coordination of the furnishing of legal assistance to older individuals within the State, and provide advice and technical assistance in the provision of legal assistance to older individuals within the State and support the furnishing of training and technical assistance for legal assistance for older individuals;

(D) the plan contains assurances, to the extent practicable, that legal assistance furnished under the plan will be in addition to any legal assistance for older individuals being furnished with funds from sources other than this Act and that reasonable efforts will be made to maintain existing levels of legal assistance for older individuals; and

(E) the plan contains assurances that area agencies on aging will give priority to legal assistance related to income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination.

(16) The plan shall provide, whenever the State desires to provide for a fiscal year for services for the prevention of abuse of older individuals—

(A) the plan contains assurances that any area agency on aging carrying out such services will conduct a program consistent with relevant State law and coordinated with existing State adult protective service activities for—

(i) public education to identify and prevent abuse of older individuals;

(ii) receipt of reports of abuse of older individuals;

(iii) active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance where appropriate and consented to by the parties to be referred; and

(iv) referral of complaints to law enforcement or public protective service agencies where appropriate;

(B) the State will not permit involuntary or coerced participation in the program of services described in this paragraph by alleged victims, abusers, or their households; and

(C) all information gathered in the course of receiving reports and making referrals shall remain confidential unless all parties to the complaint consent in writing to the release of such information, except that such information may be released to a law enforcement or public protective service agency.

(17) The plan shall provide assurances that each State will provide inservice training opportunities for personnel of agencies and programs funded under this Act.

(18) The plan shall provide assurances that each State will assign personnel (one of whom shall be known as a legal assistance developer) to provide State leadership in developing legal assistance programs for older individuals throughout the State.

(19) The plan shall provide, with respect to education and training services, assurances that area agencies on aging may enter into grants and contracts with providers of education and training services which can demonstrate the experience or capacity to provide such services (except that such contract authority shall be effective for any fiscal year only to such extent, or in such amounts, as are provided in appropriations Acts).

(20) The plan shall provide assurances that, if a substantial number of the older individuals residing in any planning and service area in the State are of limited English-speaking ability, then the State will require the area agency on aging for each such planning and service area—

(A) to utilize in the delivery of outreach services under section 306(a)(2)(A), the services of workers who are fluent in the language spoken by a predominant number of such older individuals who are of limited English-speaking ability; and

(B) to designate an individual employed by the area agency on aging, or available to such area agency on aging on a full-time basis, whose responsibilities will include—

(i) taking such action as may be appropriate to assure that counseling assistance is made available to such older individuals who are of limited English-speaking ability in order to assist such older individuals in participating in programs and receiving assistance under this Act; and

(ii) providing guidance to individuals engaged in the delivery of supportive services under the area plan involved to enable such individuals to be aware of cultural sensitivities and to take into account effectively linguistic and cultural differences.

(21) The plan shall provide assurances that the State agency, in carrying out the State Long-Term Care Ombudsman program under section 307(a)(12), will expend not less than the total amount expended by the agency in fiscal year 1991 in carrying out such a program under this title.

(22) The plan shall specify a minimum percentage of the funds received by each area agency on aging for part B that will be expended, in the absence of the waiver granted under section 306(b)(1), by such area agency on aging to provide each of the categories of services specified in section 306(a)(2).

(23) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

(A) identify the number of low-income minority older individuals in the State; and

(B) describe the methods used to satisfy the service needs of such minority older individuals.

(24) The plan shall provide assurances that the State agency will require outreach efforts that will—

(A) identify individuals eligible for assistance under this Act, with special emphasis on—

(i) older individuals residing in rural areas;

(ii) older individuals with greatest economic need (with particular attention to low-income minority individuals);

(iii) older individuals with greatest social need (with particular attention to low-income minority individuals);

(iv) older individuals with severe disabilities;

(v) older individuals with limited English-speaking ability; and

(vi) older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and

(B) inform the older individuals referred to in clauses (i) through (vi) of subparagraph (A), and the caretakers of such individuals, of the availability of such assistance;<sup>1</sup>

(25) The plan shall provide, with respect to the needs of older individuals with severe disabilities, assurances that the State will coordinate planning, identification, assessment of needs, and service for older individuals with disabilities with particular attention to individuals with severe disabilities with the State agencies with primary responsibility for individuals with disabilities, including severe disabilities, and develop collaborative programs, where appropriate, to meet the needs of older individuals with disabilities.

(26) The plan shall provide assurances that area agencies on aging will conduct efforts to facilitate the coordination of community-based, long-term care services, pursuant to section 306(a)(6)(I), for older individuals who—

(A) reside at home and are at risk of institutionalization because of limitations on their ability to function independently;

(B) are patients in hospitals and are at risk of prolonged institutionalization; or

<sup>1</sup> Error in amendment made by section 307(l) of Public Law 102-375. Should strike the semicolon and insert a period.

(C) are patients in long-term care facilities, but who can return to their homes if community-based services are provided to them.

(27) The plan shall provide assurances of consultation and coordination in planning and provision of in-home services under section 341 with State and local agencies and private nonprofit organizations which administer and provide services relating to health, social services, rehabilitation, and mental health services.

(28) The plan shall provide assurances that if the State receives funds appropriated under section 303(e), the State agency and area agencies on aging will expend such funds to carry out part E.

(29) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared, describe the methods used to satisfy the service needs of older individuals who reside in rural areas.

(30) The plan shall include the assurances and description required by section 705(a).

(31)(A) If 50 percent or more of the area plans in the State provide for an area volunteer services coordinator, as described in section 306(a)(12), the State plan shall provide for a State volunteer services coordinator, who shall—

(i) encourage area agencies on aging to provide for area volunteer services coordinators;

(ii) coordinate the volunteer services offered between the various area agencies on aging;

(iii) encourage, organize, and promote the use of older individuals as volunteers to the State;

(iv) provide technical assistance, which may include training, to area volunteer services coordinators; and

(v) promote the recognition of the contribution made by volunteers to the programs administered under the State plan.

(B) If fewer than 50 percent of the area plans in the State provide for an area volunteer services coordinator, the State plan may provide for the State volunteer services coordinator described in subparagraph (A).

(32) The plan shall provide assurances that special efforts will be made to provide technical assistance to minority providers of services.

(33) The plan—

(A) shall include the statement and the demonstration required by paragraphs (2) and (4) of section 305(d); and

(B) may not be approved unless the Commissioner approves such statement and such demonstration.

(34) The plan shall provide an assurance that the State agency will coordinate programs under this title and title VI, if applicable.

(35) The plan shall—

(A) provide an assurance that the State agency will pursue activities to increase access by older individuals who are Native Americans to all aging programs and bene-

fits provided by the agency, including programs and benefits under this title, if applicable; and

(B) specify the ways in which the State agency intends to implement the activities.

(36) If case management services are offered to provide access to supportive services, the plan shall provide that the State agency shall ensure compliance with the requirements specified in section 306(a)(20).

(37) The plan shall identify for each fiscal year, the actual and projected additional costs of providing services under this title, including the cost of providing access to such services, to older individuals residing in rural areas in the State (in accordance with a standard definition of rural areas specified by the Commissioner).

(38) The plan shall provide assurances that funds received under this title will not be used to pay any part of a cost (including an administrative cost) incurred by the State or an area agency on aging to carry out a contract or commercial relationship that is not carried out to implement this title.

(39) The plan shall provide assurances that preference in receiving services under this title will not be given by the area agency on aging to particular older individuals as a result of a contract or commercial relationship that is not carried out to implement this title.

(40) The plan shall provide assurances that if the State receives funds appropriated under section 303(g) the State agency and area agencies on aging will expend such funds to carry out part G.

(41) The plan shall provide assurances that demonstrable efforts will be made—

(A) to coordinate services provided under this Act with other State services that benefit older individuals; and

(B) to provide multigenerational activities, such as opportunities for older individuals to serve as mentors or advisers in child care, youth day care, educational assistance, at-risk youth intervention, juvenile delinquency treatment, and family support programs.

(42) The plan shall provide assurances that the State will coordinate public services within the State to assist older individuals to obtain transportation services associated with access to services provided under this title, to services under title VI, to comprehensive counseling services, and to legal assistance.

(43) The plan shall provide that the State agency shall issue guidelines applicable to grievance procedures required by section 306(a)(6)(P).

(44) The plan shall include assurances that the State has in effect a mechanism to provide for quality in the provision of in-home services under this title.

(b)(1) The Commissioner shall approve any State plan which the Commissioner finds fulfills the requirements of subsection (a), except the Commissioner may not approve such plan unless the Commissioner determines that the formula submitted under section 305(a)(2)(D) complies with the guidelines in effect under section 305(a)(2)(C).

(2) The Commissioner, in approving any State plan under this section, may waive the requirement described in paragraph (3)(B) of subsection (a) if the State agency demonstrates to the Commissioner that the service needs of older individuals residing in rural areas in the State are being met, or that the number of older individuals residing in such rural areas is not sufficient to require the State agency to comply with the requirement described in clause<sup>1</sup> (3)(B) of subsection (a).

(c)(1) The Commissioner shall not make a final determination disapproving any State plan, or any modification thereof, or make a final determination that a State is ineligible under section 305, without first affording the State reasonable notice and opportunity for a hearing.

(2) Not later than 30 days after such final determination, a State dissatisfied with such final determination may appeal such final determination to the Secretary for review. If the State timely appeals such final determination in accordance with subsection (e)(1), the Secretary shall dismiss the appeal filed under this paragraph.

(3) If the State is dissatisfied with the decision of the Secretary after review under paragraph (2), the State may appeal such decision not later than 30 days after such decision and in the manner described in subsection (e). For purposes of appellate review under the preceding sentence, a reference in subsection (e) to the Commissioner shall be deemed to be a reference to the Secretary.

(d) Whenever the Commissioner, after reasonable notice and opportunity for a hearing to the State agency, finds that—

(1) the State is not eligible under section 305,

(2) the State plan has been so changed that it no longer complies substantially with the provisions of subsection (a), or

(3) in the administration of the plan there is a failure to comply substantially with any such provision of subsection (a), the Commissioner shall notify such State agency that no further payments from its allotments under section 304 and section 308 will be made to the State (or, in the Commissioner's discretion, that further payments to the State will be limited to projects under or portions of the State plan not affected by such failure), until the Commissioner is satisfied that there will no longer be any failure to comply. Until the Commissioner is so satisfied, no further payments shall be made to such State from its allotments under section 304 and section 308 (or payments shall be limited to projects under or portions of the State plan not affected by such failure). The Commissioner shall, in accordance with regulations the Commissioner shall prescribe, disburse the funds so withheld directly to any public or nonprofit private organization or agency or political subdivision of such State submitting an approved plan in accordance with the provisions of this section. Any such payment shall be matched in the proportions specified in section 304.

(e)(1) A State which is dissatisfied with a final action of the Commissioner under subsection (b), (c), or (d) may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within 30 days after

<sup>1</sup> Should strike "clause" and insert "paragraph".

such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner, or any officer designated by the Commissioner for such purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which the Commissioner's action is based, as provided in section 2112 of title 28, United States Code.

(2) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Commissioner may modify or set aside the Commissioner's order. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown may remand the case to the Commissioner to take further evidence, and the Commissioner shall, within 30 days, file in the court the record of those further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(3) The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

(f)(1) Neither a State, nor a State agency, may require any provider of legal assistance under this title to reveal any information that is protected by the attorney-client privilege.

(2) Information disclosed under section 306(a)(14)(B)(i) or subsection (a)(7)(C)(ii)(I) may be disclosed to the public by the State agency or the State only if such information could be disclosed under section 552 of title 5, United States Code, by an agency of the United States.

(42 U.S.C. 3027)

#### PLANNING, COORDINATION, EVALUATION, AND ADMINISTRATION OF STATE PLANS

SEC. 308. (a)(1) Amounts available to States under subsection (b)(1) may be used to make grants to States for paying such percentages as each State agency determines, but not more than 75 percent, of the cost of the administration of its State plan, including the preparation of the State plan, the evaluation of activities carried out under such plan, the collection of data and the carrying out of analyses related to the need for supportive services, nutrition services, and multipurpose senior centers within the State, and dissemination of information so obtained, the provision of short-term training to personnel of public or nonprofit private agencies and organizations engaged in the operation of programs authorized by this Act, and the carrying out of demonstration projects of statewide significance relating to the initiation, expansion, or improvement of services assisted under this title.

(2) Any sums available to a State under subsection (b)(1) for part of the cost of the administration of its State plan which the State determines is not needed for such purposes may be used by

the State to supplement the amount available under section 304(d)(1)(A) to cover part of the cost of the administration of area plans.

(3) Any State which has been designated a single planning and service area under section 305(a)(1)(E) covering all, or substantially all, of the older individuals in such State, as determined by the Commissioner, may elect to pay part of the costs of the administration of State and area plans either out of sums received under this section or out of sums made available for the administration of area plans under section 304(d)(1)(A), but shall not pay such costs out of sums received or allotted under both such sections.

(b)(1) If for any fiscal year the aggregate amount appropriated under section 303 does not exceed \$800,000,000, then—

(A) except as provided in clause (ii), the greater of 5 percent of the allotment to a State under section 304(a)(1) or \$300,000; and

(B) in the case of Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the greater of 5 percent of such allotment or \$75,000; shall be available to such State to carry out the purposes of this section.

(2) If for any fiscal year the aggregate amount appropriated under section 303 exceeds \$800,000,000, then—

(A) except as provided in clause (ii), the greater of 5 percent of the allotment to a State under section 304(a)(1) or \$500,000; and

(B) in the case of Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the greater of 5 percent of such allotment or \$100,000; shall be available to such State to carry out the purposes of this section.

(3)(A) If the aggregate amount appropriated under section 303 for a fiscal year does not exceed \$800,000,000, then any State which desires to receive amounts, in addition to amounts allotted to such State under paragraph (1), to be used in the administration of its State plan in accordance with subsection (a) may transmit an application to the Commissioner in accordance with this paragraph. Any such application shall be transmitted in such form, and according to such procedures, as the Commissioner may require, except that such application may not be made as part of, or as an amendment to, the State plan.

(B) The Commissioner may approve any application transmitted by a State under subparagraph (A) if the Commissioner determines, based upon a particularized showing of need that—

(i) the State will be unable to fully and effectively administer its State plan and to carry out programs and projects authorized by this title unless such additional amounts are made available by the Commissioner;

(ii) the State is making full and effective use of its allotment under paragraph (1) and of the personnel of the State agency and area agencies designated under section 305(a)(2)(A)

in the administration of its State plan in accordance with subsection (a); and

(iii) the State agency and area agencies on aging of such State are carrying out, on a full-time basis, programs and activities which are in furtherance of the objectives of this Act.

(C) The Commissioner may approve that portion of the amount requested by a State in its application under subparagraph (A) which the Commissioner determines has been justified in such application.

(D) Amounts which any State may receive in any fiscal year under this paragraph may not exceed three-fourths of 1 percent of the sum of the amounts allotted under section 304(a) to such State to carry out the State plan for such fiscal year.

(E) No application by a State under subparagraph (A) shall be approved unless it contains assurances that no amounts received by the State under this paragraph will be used to hire any individual to fill a job opening created by the action of the State in laying off or terminating the employment of any regular employee not supported under this Act in anticipation of filling the vacancy so created by hiring an employee to be supported through use of amounts received under this paragraph.

(4)(A) Notwithstanding any other provision of this title and except as provided in subparagraph (B), with respect to funds received by a State and attributable to funds appropriated under paragraph (1) or (2) of section 303(b), the State may elect in its plan under section 307(a)(13) regarding part C of this title, to transfer not more than 30 percent of the funds so received between subpart 1 and subpart 2 of part C, for use as the State considers appropriate to meet the needs of the area served. The Commissioner shall approve any such transfer unless the Commissioner determines that such transfer is not consistent with the objectives of this Act.

(B) If a State demonstrates, to the satisfaction of the Commissioner, that funds received by the State and attributable to funds appropriated under paragraph (1) or (2) of section 303(b), including funds transferred under subparagraph (A) without regard to this subparagraph, for fiscal year 1993, 1994, 1995, or 1996 are insufficient to satisfy the need for services under subpart 1 or subpart 2 of part C, then the Commissioner may grant a waiver that permits the State to transfer under subparagraph (A) to satisfy such need—

(i) an additional 18 percent of the funds so received for fiscal year 1993;

(ii) an additional 15 percent of the funds so received for each of the fiscal years 1994 and 1995; and

(iii) an additional 10 percent of the funds so received for fiscal year 1996.

(5)(A) Notwithstanding any other provision of this title and except as provided in subparagraph (B), of the funds received by a State attributable to funds appropriated under subsection (a)(1), and paragraphs (1) and (2) of subsection (b), of section 303, the State may elect to transfer not more than 30 percent for fiscal year 1993, not more than 25 percent for fiscal year 1994, not more than 25 percent for fiscal year 1995, and not more than 20 percent for fiscal year 1996, between programs under part B and part C, for

use as the State considers appropriate. The State shall notify the Commissioner of any such election.

(B)(i) If a State demonstrates, to the satisfaction of the Commissioner, that funds received by the State and attributable to funds appropriated under part B or part C (including funds transferred under subparagraph (A) without regard to this subparagraph) for fiscal year 1994 or 1995 are insufficient to satisfy the need for services under such part, then the Commissioner may grant a waiver that permits the State to transfer under subparagraph (A) to satisfy such need an additional 5 percent of the funds so received for such fiscal year.

(ii) If a State demonstrates, to the satisfaction of the Commissioner, that funds received by the State and attributable to funds appropriated under part B or part C (including funds transferred under subparagraph (A) without regard to this subparagraph) for fiscal year 1996 are insufficient to satisfy the need for services under such part, then the Commissioner may grant a waiver that permits the State to transfer under subparagraph (A) to satisfy such need an additional 8 percent of the funds so received for such fiscal year.

(C) At a minimum, the application described in subparagraph (A) shall include a description of the amount to be transferred, the purposes of the transfer, the need for the transfer, and the impact of the transfer on the provision of services from which the funding will be transferred. The Commissioner shall approve or deny the application in writing.

(6) A State agency may not delegate to an area agency on aging or any other entity the authority to make a transfer under paragraph (4)(A) or (5)(A).

(7) The Commissioner shall annually collect, and include in the report required by section 207(a), data regarding the transfers described in paragraphs (4)(A) and (5)(A), including—

(A) the amount of funds involved in the transfers, analyzed by State;

(B) the rationales for the transfers;

(C) in the case of transfers described in paragraphs (4)(A) and (5)(A), the effect of the transfers of the provision of services, including the effect on the number of meals served, under—

(i) subpart 1 of part C; and

(ii) subpart 2 of part C; and

(D) in the case of transfers described in paragraph (5)(A)—

(i) in the case of transfers to part B, information on the supportive services, or services provided through senior centers, for which the transfers were used; and

(ii) the effect of the transfers on the provision of services provided under—

(I) part B; and

(II) part C, including the effect on the number of meals served.

(c) The amounts of any State's allotment under subsection (b) for any fiscal year which the Commissioner determines will not be required for that year for the purposes described in subsection

(a)(1) shall be available to provide services under part B or part C, or both, in the State.

(42 U.S.C. 3028)

#### PAYMENTS

SEC. 309. (a) Payments of grants or contracts under this title may be made (after necessary adjustments resulting from previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine. From a State's allotment for a fiscal year which is available under section 308 the Commissioner may pay to a State which does not have a State plan approved under section 307 such amounts as the Commissioner deems appropriate for the purpose of assisting such State in developing a State plan.

(b)(1) For each fiscal year, not less than 25 percent of the non-Federal share of the total expenditures under the State plan which is required by section 304(d) shall be met from funds from State or local public sources.

(2) Funds required to meet the non-Federal share required by section 304(d)(1)(D), in amounts exceeding the non-Federal share required prior to fiscal year 1981, shall be from State sources.

(c) A State's allotment under section 304 for a fiscal year shall be reduced by the percentage (if any) by which its expenditures for such year from State sources under its State plan approved under section 307 are less than its average annual expenditures from such sources for the period of 3 fiscal years preceding such year.

(42 U.S.C. 3029)

#### DISASTER RELIEF REIMBURSEMENTS

SEC. 310. (a)(1) The Commissioner may provide reimbursements to any State, upon application for such reimbursement, for funds such State makes available to area agencies on aging in such State for the delivery of supportive services (and related supplies) during any major disaster declared by the President in accordance with the Disaster Relief and Emergency Assistance Act.<sup>1</sup>

(2) Total payments to all States under paragraph (1) in any fiscal year shall not exceed 2 percent of the total amount appropriated and available to carry out title IV.

(3) If the Commissioner decides, in the 5-day period beginning on the date such disaster is declared by the President, to provide an amount of reimbursement under paragraph (1) to a State, then the Commissioner shall provide not less than 75 percent of such amount to such State not later than 5 days after the date of such decision.

(b)(1) At the beginning of each fiscal year the Commissioner shall set aside, for payment to States under subsection (a), an amount equal to 2 percent of the total amount appropriated and available to carry out title IV.

<sup>1</sup>Section 109(d) of the Disaster Relief and Emergency Assistance Amendments of 1988, Public Law 100-707, amended this paragraph by striking "Act of 1974" and inserting "and Emergency Assistance Act". In light of section 102(a) of Public Law 100-707, probably should read "Robert T. Stafford Disaster Relief and Emergency Assistance Act".

(2) Amounts set aside under paragraph (1) which are not obligated by the end of the third quarter of any fiscal year shall be made available to carry out title IV.

(c) Nothing in this section shall be construed to prohibit expenditures by States for disaster relief for older individuals in excess of amounts reimbursable under this section, by using funds made available to them under other sections of this Act or under other provisions of Federal or State law, or from private sources.

(42 U.S.C. 3030)

#### AVAILABILITY OF SURPLUS COMMODITIES

SEC. 311. (a)(1) Agricultural commodities and products purchased by the Secretary of Agriculture under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be donated to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

(2) The Commodities Credit Corporation shall dispose of food commodities under section 415 of the Agricultural Act of 1949 (7 U.S.C. 1431) by donating them to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

(3) Dairy products purchased by the Secretary of Agriculture under section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1) shall be used to meet the requirements of programs providing nutrition services in accordance with the provisions of this title.

(4)(A) Subject to the authorization of appropriations specified in subsection (c), in donating commodities under this subsection, the Secretary of Agriculture shall maintain—

(i) for fiscal year 1992, a level of assistance equal to the greater of—

(I) a per meal rate equal to the amount appropriated under subsection (c) for fiscal year 1992, divided by the number of meals served in the preceding fiscal year; or

(II) 61 cents per meal; and

(ii) for fiscal year 1993 and each subsequent fiscal year, an annually programmed level of assistance equal to the greater of—

(I) a per meal rate equal to the amount appropriated under subsection (c) for the fiscal year, divided by the number of meals served in the preceding fiscal year; or

(II) 61 cents per meal, adjusted in accordance with changes in the series for food away from home, of the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor, based on the 12-month period ending on July 1 of the preceding year.

(B) Among the commodities delivered under this subsection, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates. The Secretary of Agriculture, in consultation with the Commissioner, is authorized to prescribe the terms and conditions respecting the donating of commodities under this subsection.

(b)(1) Notwithstanding any other provision of law, a State may, for purposes of the programs authorized by this Act, elect to receive cash payments in lieu of donated foods for all or any portion of its project. In any case in which a State makes such an election, the Secretary of Agriculture shall make cash payments to such State in an amount equivalent in value to the donated foods which the State otherwise would have received if such State had retained its commodity distribution.

(2) When such payments are made, the State agency shall promptly and equitably disburse any cash it receives in lieu of commodities to recipients of grants or contracts. Such disbursements shall only be used by such recipients of grants or contracts to purchase United States agricultural commodities and other foods for their nutrition projects.

(3) Nothing in this subsection shall be construed to authorize the Secretary of Agriculture to require any State to elect to receive cash payments under this subsection.

(c)(1)(A) There are authorized to be appropriated \$250,000,000 for fiscal year 1992, \$310,000,000 for fiscal year 1993, \$380,000,000 for fiscal year 1994, and \$460,000,000 for fiscal year 1995, to carry out the provisions of this section (other than subsection (a)(1)).

(B) Effective on the first day of the first month beginning after the date of enactment of the Older Americans Act Amendments of 1984, no State may receive reimbursement under the provisions of this section unless the State submits final reimbursement claims for meals within 90 days after the last day of the quarter for which the reimbursement is claimed.

(2)(A) Except as provided in subparagraph (B), in any fiscal year in which compliance with subsection (a)(4) of this section costs more than the amounts authorized under paragraph (1) of this subsection for that fiscal year the Secretary of Agriculture shall reduce the cents per meal level determined pursuant to subsection (a)(4) for that fiscal year as necessary to meet the authorization of appropriations for that fiscal year.

(B) In each fiscal year, the final reimbursement claims shall be adjusted to use the full amount appropriated under this subsection for the fiscal year.

(d) In each fiscal year, the Secretary of Agriculture and the Secretary of Health and Human Services shall jointly disseminate to State agencies, area agencies on aging, and providers of nutrition services assisted under this title, information concerning—

(1) the existence of any Federal commodity processing program in which such State agencies, area agencies on aging, and providers may be eligible to participate; and

(2) the procedures to be followed to participate in the program.

(42 U.S.C. 3030a)

#### MULTIPURPOSE SENIOR CENTERS: RECAPTURE OF PAYMENTS

SEC. 312. If, within 10 years after acquisition, or within 20 years after the completion of construction, of any facility for which funds have been paid under this title—

(1) the owner of the facility ceases to be a public or non-profit private agency or organization; or

(2) the facility ceases to be used for the purposes for which it was acquired (unless the Commissioner determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so); the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(42 U.S.C. 3030b)

#### AUDIT

SEC. 313. (a) The Commissioner and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to a grant or contract received under this title.

(b) State agencies and area agencies on aging shall not request information or data from providers which is not pertinent to services furnished pursuant to this Act or a payment made for such services.

(42 U.S.C. 3030c)

#### SEC. 314. RIGHTS RELATING TO IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS.

(a)<sup>1</sup> PROMOTION.—The Commissioner shall require entities that provide in-home services under this title to promote the rights of each older individual who receives such services. Such rights include the following:

(1) The right—

(A) to be fully informed in advance about each in-home service provided by such entity under this title and about any change in such service that may affect the well-being of such individual; and

(B) to participate in planning and changing an in-home service provided under this title by such entity unless such individual is judicially adjudged incompetent.

(2) The right to voice a grievance with respect to such service that is or fails to be so provided, without discrimination or reprisal as a result of voicing such grievance.

(3) The right to confidentiality of records relating to such individual.

(4) The right to have the property of such individual treated with respect.

<sup>1</sup> Error in amendment made by section 311 of Public Law 102-375. Should strike "(a) PROMOTION.—".

(5) The right to be fully informed (orally and in writing), in advance of receiving an in-home service under this title, of such individual's rights and obligations under this title.

(42 U.S.C. 3030c-1)

## PART B—SUPPORTIVE SERVICES AND SENIOR CENTERS

### PROGRAM AUTHORIZED

SEC. 321. (a) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for any of the following supportive services:

(1) health (including mental health), education and training, welfare, informational, recreational, homemaker, counseling, or referral services;

(2) transportation services to facilitate access to supportive services or nutrition services, or both;

(3) services designed to encourage and assist older individuals to use the facilities and services (including information and assistance services) available to them, including language translation services to assist older individuals with limited-English speaking ability to obtain services under this title;

(4) services designed (A) to assist older individuals to obtain adequate housing, including residential repair and renovation projects designed to enable older individuals to maintain their homes in conformity with minimum housing standards; (B) to adapt homes to meet the needs of older individuals who have physical disabilities; (C) to prevent unlawful entry into residences of older individuals, through the installation of security devices and through structural modifications or alterations of such residences; or (D) to receive applications from older individuals for housing under section 202 of the Housing Act of 1959 (12 U.S.C. 1701Q);

(5) services designed to assist older individuals in avoiding institutionalization and to assist individuals in long-term care institutions who are able to return to their communities, including client assessment through case management and integration and coordination of community services such as preinstitution evaluation and screening and home health services, homemaker services, shopping services, escort services, reader services, and letter writing services, through resource development and management to assist such individuals to live independently in a home environment;

(6) services designed to provide to older individuals legal assistance and other counseling services and assistance, including—

(A) tax counseling and assistance, financial counseling, and counseling regarding appropriate health and life insurance coverage;

(B) representation—

(i) of individuals who are wards (or are allegedly incapacitated); and

- (ii) in guardianship proceedings of older individuals who seek to become guardians, if other adequate representation is unavailable in the proceedings; and
- (C) provision, to older individuals who provide uncompensated care to their adult children with disabilities, of counseling to assist such older individuals with permanency planning for such children;
- (7) services designed to enable older individuals to attain and maintain physical and mental well-being through programs of regular physical activity, exercise, music therapy, art therapy, and dance-movement therapy;
- (8) services designed to provide health screening to detect or prevent illnesses, or both, that occur most frequently in older individuals;
- (9) services designed to provide, for older individuals, pre-retirement counseling and assistance in planning for and assessing future post-retirement needs with regard to public and private insurance, public benefits, lifestyle changes, relocation, legal matters, leisure time, and other appropriate matters;
- (10) services of an ombudsman at the State level to receive, investigate, and act on complaints by older individuals who are residents of long-term care facilities and to advocate for the well-being of such individuals;
- (11) services which are designed to meet the unique needs of older individuals who are disabled, and of older individuals who provide uncompensated care to their adult children with disabilities;
- (12) services to encourage the employment of older workers, including job and second career counseling and, where appropriate, job development, referral, and placement;
- (13) crime prevention services and victim assistance programs for older individuals;
- (14) a program, to be known as "Senior Opportunities and Services", designed to identify and meet the needs of low-income older individuals in one or more of the following areas: (A) development and provision of new volunteer services; (B) effective referral to existing health, employment, housing, legal, consumer, transportation, and other services; (C) stimulation and creation of additional services and programs to remedy gaps and deficiencies in presently existing services and programs; and (D) such other services as the Commissioner may determine are necessary or especially appropriate to meet the needs of low-income older individuals and to assure them greater self-sufficiency;
- (15) services for the prevention of abuse of older individuals in accordance with clause (16) of section 307(a)<sup>1</sup>;
- (16) inservice training and State leadership for legal assistance activities;
- (17) health and nutrition education services, including information concerning prevention, diagnosis, treatment, and re-

<sup>1</sup>Section 708(b) of Public Law 102-375, attempted to strike "clause (16) of section 307(a)" and insert "chapter 3 of subtitle A of title VII and section 307(a)(16)", but cannot be executed because the amendment referred to "section 321(15)" instead of "section 321(a)(15)".

habilitation of age-related diseases and chronic disabling conditions;

(18) services designed to enable mentally impaired older individuals to attain and maintain emotional well-being and independent living through a coordinated system of support services;

(19) services designed to support family members and other persons providing voluntary care to older individuals that need long-term care services;

(20) services designed to provide information and training for individuals who are or may become guardians or representative payees of older individuals, including information on the powers and duties of guardians and representative payees and on alternatives to guardianships;

(21) services to encourage and facilitate regular interaction between school-age children and older individuals, including visits in long-term care facilities, multipurpose senior centers, and other settings; or

(22) any other services;

if such services meet standards prescribed by the Commissioner and are necessary for the general welfare of older individuals. For purposes of paragraph (5), the term "client assessment through case management" includes providing information relating to assistive technology.

(b)(1) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the acquisition, alteration, or renovation of existing facilities, including mobile units, and, where appropriate, construction of facilities to serve as multipurpose senior centers.

(2) Funds made available to a State under this part may be used for the purpose of assisting in the operation of multipurpose senior centers and meeting all or part of the costs of compensating professional and technical personnel required for the operation of multipurpose senior centers.

(42 U.S.C. 3030d)

## PART C—NUTRITION SERVICE

### Subpart 1—Congregate Nutrition Services

#### PROGRAM AUTHORIZED

SEC. 331. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects—

(1) which, 5 or more days a week (except in a rural area where such frequency is not feasible (as defined by the Commissioner by regulation) and a lesser frequency is approved by the State agency), provide at least one hot or other appropriate meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide;

(2) which shall be provided in congregate settings; and

(3) which may include nutrition education services and other appropriate nutrition services for older individuals.

(42 U.S.C. 3030e)

### Subpart 2—Home Delivered Nutrition Services

#### PROGRAM AUTHORIZED

SEC. 336. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects for older individuals which, 5 or more days a week (except in a rural area where such frequency is not feasible (as defined by the Commissioner by regulation) and a lesser frequency is approved by the State agency), provide at least one home delivered hot, cold, frozen, dried, canned, or supplemental foods (with a satisfactory storage life) meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide.

(42 U.S.C. 3030f)

#### CRITERIA

SEC. 337. The Commissioner, in consultation with organizations of and for the aged, blind, and disabled, and with representatives from the American Dietetic Association, the Dietary Managers Association, the National Association of Area Agencies on Aging, the National Association of Nutrition and Aging Services Programs, the National Association of Meals Programs, Incorporated, and any other appropriate group, shall develop minimum criteria of efficiency and quality for the furnishing of home delivered meal services for projects described in section 336. The criteria required by this section shall take into account the ability of established home delivered meals programs to continue such services without major alteration in the furnishing of such services.

(42 U.S.C. 3030g)

### Subpart 3—School-Based Meals for Volunteer Older Individuals and Multigenerational Programs

#### SEC. 338. ESTABLISHMENT.

(a) IN GENERAL.—The Commissioner shall establish and carry out, under State plans approved under section 307, a program for making grants to States to pay for the Federal share of establishing and operating projects in public elementary and secondary schools (including elementary and secondary schools for Indian children operated with Federal assistance, or operated by the Department of the Interior, and referred to in section 1005(d)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711(d)(2)) that—

(1) provide hot meals, each of which ensures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences, to volunteer older individuals—

- (A) while such schools are in session;
- (B) during the summer; and

(C) unless waived by the State involved, on the weekdays in the school year when such schools are not in session;

(2) provide multigenerational activities in which volunteer older individuals and students interact;

(3) provide social and recreational activities for volunteer older individuals;

(4) develop skill banks that maintain and make available to school officials information on the skills and preferred activities of volunteer older individuals, for purposes of providing opportunities for such individuals to serve as tutors, teacher aides, living historians, special speakers, playground supervisors, lunchroom assistants, and in other roles; and

(5) provide opportunities for volunteer older individuals to participate in school activities (such as classes, dramatic programs, and assemblies) and use school facilities.

(b) FEDERAL SHARE.—The Federal share of the cost of establishing and operating nutrition and multigenerational activities projects under this subpart shall be 85 percent.

(42 U.S.C. 3030g-11)

#### SEC. 338A. APPLICATION AND SELECTION OF PROVIDERS.

(a) CONTENTS OF APPLICATION.—To be eligible to carry out a project under the program established under this subpart, an entity shall submit an application to a State agency. Such application shall include—

(1) a plan describing the project proposed by the applicant and comments on such plan from the appropriate area agency on aging and the appropriate local educational agency (as defined in section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891));

(2) an assurance that the entity shall pay not more than 85 percent of the cost of carrying out such project from funds awarded under this subpart;

(3) an assurance that the entity shall pay not less than 15 percent of such cost, in cash or in kind, from non-Federal sources;

(4) information demonstrating the need for such project, including a description of—

(A) the nutrition services and other services currently provided under this part in the geographic area to be served by such project; and

(B) the manner in which the project will be coordinated with such services; and

(5) such other information and assurances as the Commissioner may require by regulation.

(b) SELECTION AMONG APPLICANTS.—In selecting grant recipients from among entities that submit applications under subsection (a) for a fiscal year, the State agency shall—

(1) give first priority to entities that carried out a project under this subpart in the preceding fiscal year;

(2) give second priority to entities that carried out a nutrition project under subpart 1 or title VI in the preceding fiscal year; and

(3) give third priority to entities whose applications include a plan that involves a school with greatest need (as measured by the dropout rate, the level of substance abuse, and the number of children who have limited-English proficiency or who participate in projects under section 1015 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2025)).

(42 U.S.C. 3030g-12)

#### SEC. 338B. REPORTS.

(a) REPORTS BY STATES.—Not later than 60 days after the end of a fiscal year for which a State receives a grant under this subpart, such State shall submit to the Commissioner a report evaluating the projects carried out under this subpart by such State in such fiscal year. Such report shall include for each project—

(1) a description of—

(A) persons served;

(B) multigenerational activities carried out; and

(C) additional needs of volunteer older individuals and students; and

(2) recommendations for any appropriate modifications to satisfy the needs described in paragraph (1)(C).

(b) REPORTS BY COMMISSIONER.—Not later than 120 days after the end of a fiscal year for which funds are appropriated to carry out this subpart, the Commissioner shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report summarizing, with respect to each State, the reports submitted under subsection (a) for such fiscal year.

(42 U.S.C. 3030g-13)

#### Subpart 4—General Provisions

#### SEC. 339. COMPLIANCE WITH DIETARY GUIDELINES.

A State that establishes and operates a nutrition project under this part shall ensure that the meals provided through the project—

(1) comply with the Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture; and  
(2) provide to each participating older individual—

(A) a minimum of 33½ percent of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences, if the project provides 1 meal per day;

(B) a minimum of 66⅔ percent of the allowances if the project provides 2 meals per day; and

(C) 100 percent of the allowances if the project provides 3 meals per day.

(42 U.S.C. 3030g-21)

#### SEC. 339A. PAYMENT REQUIREMENT.

Payments made by a State agency or an area agency on aging for nutrition services (including meals) provided under part A, B, or C may not be reduced to reflect any increase in the level of assistance provided under section 311.

(42 U.S.C. 3030g-22)

## PART D—IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS

## PROGRAM AUTHORIZED

SEC. 341. (a) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to provide in-home services to frail older individuals, including in-home supportive services for older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and to the families of such victims.

(b) In carrying out the provisions of this part, each area agency on aging shall coordinate with other community agencies and voluntary organizations providing counseling and training for family caretakers and support service personnel in management of care, functional and needs assessment services, assistance with locating, arranging for, and coordinating services, case management, and counseling prior to admission to nursing home to prevent premature institutionalization.

(42 U.S.C. 3030h)

## DEFINITION OF IN-HOME SERVICES

SEC. 342. For purposes of this part, the term "in-home services" includes—

- (1) homemaker and home health aides;
- (2) visiting and telephone reassurance;
- (3) chore maintenance;
- (4) in-home respite care for families, and adult day care as a respite service for families;
- (5) minor modification of homes that is necessary to facilitate the ability of older individuals to remain at home and that is not available under other programs, except that not more than \$150 per client may be expended under this part for such modification;
- (6) personal care services; and
- (7) other in-home services as defined—
  - (A) by the State agency in the State plan submitted in accordance with section 307; and
  - (B) by the area agency on aging in the area plan submitted in accordance with section 306.

(42 U.S.C. 3030i)

## STATE CRITERIA

SEC. 343. The State agency shall develop eligibility criteria for providing in-home services to frail older individuals which shall take into account—

- (1) age;
  - (2) greatest economic need;
  - (3) noneconomic factors contributing to the frail condition;
- and
- (4) noneconomic and nonhealth factors contributing to the need for such services.

(42 U.S.C. 3030j)

## MAINTENANCE OF EFFORT

SEC. 344. Funds made available under this part shall be in addition to, and may not be used to supplant, any funds that are or would otherwise be expended under any Federal, State, or local law by a State or unit of general purpose local government (including area agencies on aging which have in their planning and services areas existing services which primarily serve older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and the families of such victims).

(42 U.S.C. 3030k)

## PART E—ADDITIONAL ASSISTANCE FOR SPECIAL NEEDS OF OLDER INDIVIDUALS

## PROGRAM AUTHORIZED

SEC. 351. The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to provide services, consistent with the purpose of this title, designed to satisfy special needs of older individuals. Such services include—

- (1) transportation associated with services provided under this title;
- (2) outreach regarding such services;
- (3) targeting such services to older individuals with greatest economic need or greatest social need;
- (4) services under the ombudsman program established under titles III and VII in accordance with section 712; and
- (5) any other service under this title—
  - (A) for which the State demonstrates to satisfaction of the Commissioner that there is unmet need; and
  - (B) which is appropriate to improve the quality of life of older individuals, particularly those with greatest economic need and those with greatest social need.

(42 U.S.C. 3030l)

## PART F—DISEASE PREVENTION AND HEALTH PROMOTION SERVICES

## PROGRAM AUTHORIZED

SEC. 361. (a) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to provide disease prevention and health promotion services and information at multipurpose senior centers, at congregate meal sites, through home delivered meals programs, or at other appropriate sites. In carrying out such program, the Commissioner shall consult with the Directors of the Centers for Disease Control and the National Institute on Aging.

(b) The Commissioner shall, to the extent possible, assure that services provided by other community organizations and agencies are used to carry out the provisions of this part.

(42 U.S.C. 3030m)

## DISTRIBUTION TO AREA AGENCIES ON AGING

**SEC. 362.** The State agency shall give priority, in carrying out this part, to areas of the State—

- (1) which are medically underserved; and
- (2) in which there are a large number of older individuals who have the greatest economic need for such services.

(42 U.S.C. 3030n)

**SEC. 363. DEFINITION.**

As used in this part, the term "disease prevention and health promotion services" means—

- (1) health risk assessments;
- (2) routine health screening, which may include hypertension, glaucoma, cholesterol, cancer, vision, hearing, diabetes, and nutrition screening;
- (3) nutritional counseling and educational services for individuals and their primary caregivers;
- (4) health promotion programs, including programs relating to chronic disabling conditions (including osteoporosis and cardiovascular disease) prevention and reduction of effects, alcohol and substance abuse reduction, smoking cessation, weight loss and control, and stress management;
- (5) programs regarding physical fitness, group exercise, and music, art, and dance-movement therapy, including programs for multigenerational participation that are provided by—

(A) an institution of higher education;

(B) a local educational agency, as defined in section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891); or

(C) a community-based organization;

(6) home injury control services, including screening of high-risk home environments and provision of educational programs on injury prevention (including fall and fracture prevention) in the home environment;

(7) screening for the prevention of depression, coordination of community mental health services, provision of educational activities, and referral to psychiatric and psychological services;

(8) educational programs on the availability, benefits, and appropriate use of preventive health services covered under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(9) medication management screening and education to prevent incorrect medication and adverse drug reactions;

(10) information concerning diagnosis, prevention, treatment, and rehabilitation of age-related diseases and chronic disabling conditions, including osteoporosis, cardiovascular diseases, and Alzheimer's disease and related disorders with neurological and organic brain dysfunction;

(11) gerontological counseling; and

(12) counseling regarding social services and followup health services based on any of the services described in paragraphs (1) through (11).

The term shall not include services for which payment may be made under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(42 U.S.C. 3030o)

**PART G—SUPPORTIVE ACTIVITIES FOR CARETAKERS WHO PROVIDE  
IN-HOME SERVICES TO FRAIL OLDER INDIVIDUALS**

**SEC. 381. PROGRAM AUTHORIZED.**

The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to carry out a program to provide supportive activities for caretakers who provide in-home services to frail older individuals (including older individuals who are victims of Alzheimer's disease or related disorders with neurological and organic brain dysfunction). Such supportive activities may include—

- (1) providing training and counseling for such caretakers;
- (2) technical assistance to such caretakers to assist them to form or to participate in support groups;
- (3) providing information—
  - (A) to frail older individuals and their families regarding how to obtain in-home services and respite services; and
  - (B) to caretakers who provide such services, regarding—
    - (i) how to provide such services; and
    - (ii) sources of nonfinancial support available to them as a result of their providing such services; and
  - (4) maintaining lists of individuals who provide respite services for the families of frail older individuals.

(42 U.S.C. 3030p)

**SEC. 382. DEFINITIONS.**

For purposes of this part, the term "in-home services" has the meaning given such term in section 342.

(42 U.S.C. 3030q)

**SEC. 383. MAINTENANCE OF EFFORT.**

Section 344 shall apply with respect to funds made available under this part, in the same manner as such section applies to funds made available under part D.

(42 U.S.C. 3030r)

**TITLE IV—TRAINING, RESEARCH, AND DISCRETIONARY  
PROJECTS AND PROGRAMS**

**STATEMENT OF PURPOSE**

**SEC. 401.** It is the purpose of this title to expand the Nation's knowledge and understanding of aging and the aging process, to design and test innovative ideas in programs and services for older individuals, and publicly disseminate the results of the tests, to replicate such programs and services under this Act, and to help meet the needs for trained personnel in the field of aging through—

(1) placing a priority on the education and training of personnel to work with and on behalf of older individuals, with special emphasis on minority individuals, low-income individuals, frail individuals, and individuals with disabilities;

(2) research and development of effective practices in the field of aging;

(3) demonstration projects directly related to the field of aging; and

(4) dissemination of information on aging and the aging process acquired through such programs to public and private organizations or programs for older individuals.

(42 U.S.C. 3030aa)

#### ADMINISTRATION

SEC. 402. (a) In order to carry out the provisions of this title effectively, the Commissioner shall administer this title through the Administration.

(b) In carrying out the provisions of this title, the Commissioner may request the technical assistance and cooperation of the Department of Education, the National Institutes of Health, the Department of Veterans Affairs, the Alcohol, Drug Abuse, and Mental Health Administration<sup>1</sup>, and such other agencies and departments of the Federal Government as may be appropriate.

(c) The Commissioner shall ensure that grants and contracts under this title are equitably awarded to agencies, organizations, and institutions representing minorities.

(d) The Commissioner shall, in developing priorities, consistent with the requirements of this title, for awarding grants and entering into contracts under this title, consult annually with State agencies, area agencies on aging, recipients of grants under title VI, institutions of higher education, organizations representing beneficiaries of services under this Act, and other organizations, and individuals, with expertise in aging issues.

(e) The Commissioner shall ensure that grants and contracts awarded under this title—

(1) are evaluated for their benefit to older individuals, and to programs under this Act; and

(2) comply with the requirements under this Act.

(42 U.S.C. 3030bb)

#### PART A—EDUCATION AND TRAINING

##### PURPOSE

SEC. 410. The purpose of this part is to improve the quality of service and to help meet critical shortages of adequately trained personnel for programs in the field of aging by—

(1) identifying both short- and long-range manpower needs in the field of aging;

<sup>1</sup>Section 163(c)(2)(C) of Public Law 102-321, attempted to amend section 402(b) by striking out "the Alcohol, Drug Abuse, and Mental Health Administration" and inserting "the Substance Abuse and Mental Health Services Administration" but could not be executed because the language to be stricken was inaccurately quoted at that time.

(2) providing a broad range of educational and training opportunities to meet those needs;

(3) attracting a greater number of qualified personnel, with particular emphasis on attracting minority individuals, into the field of aging;

(4) helping to upgrade personnel training programs to make them more responsive to the need in the field of aging; and

(5) establishing and supporting multidisciplinary centers of gerontology (including centers of gerontology to improve, enhance, and expand minority personnel and training programs) and providing special emphasis that will improve, enhance, and expand existing training programs.

(42 U.S.C. 3030jj)

#### GRANTS AND CONTRACTS

SEC. 411. (a) The Commissioner shall make grants and enter into contracts to achieve the purpose of this part. The purposes for which such grants and contracts shall be made include the following:

(1) To provide comprehensive and coordinated nondegree education, training programs, and curricula at institutions of higher education and at other research, training, or educational organizations, for practitioners in the fields of nutrition, health (including mental health) care, gerontology, supportive services, housing, and long-term care, including the expansion and enhancement of existing inservice education and training programs.

(2) To provide inservice training opportunities to the personnel of State offices, area agencies on aging, senior centers, and nutrition and counseling programs to strengthen their capacity to remain responsive to the needs of older individuals, with special emphasis on using culturally sensitive practices.

(3) To provide courses on aging and the dissemination of information about aging to the public through institutions of higher education and other public and nonprofit private organizations and agencies.

(4) To provide in-service training opportunities and courses of instruction on aging to Indian tribes through public and nonprofit Indian aging organizations.

(5) To provide annually a national meeting to train directors of programs under title VI.

(b) To achieve the purpose of this title, the Administration shall conduct both—

(1) long-term educational activities to prepare personnel for careers in the field of aging; and

(2) short-term inservice training and continuing education activities for State agency and area agency on aging personnel, and other personnel, in the field of aging or preparing to enter the field of aging.

(c) In making grants and contracts under this part, the Commissioner shall give special consideration to the recruitment and training of personnel, volunteers, and those individuals preparing

for employment in that part of the field of aging which relates to providing services to individuals with disabilities and to individuals with Alzheimer's disease and related disorders with neurological and organic brain dysfunction and providing family respite services with respect to such individuals.

(d) In making grants or contracts under this part, the Commissioner shall ensure that all projects and activities related to personnel training shall include specific data on the number of individuals to be trained and the number of older individuals to be served through such training activities by public and nonprofit agencies, State and area agencies on aging, institutions of higher education, and other organizations.

(e) From amounts appropriated under 431(b), the Commissioner shall make grants and enter into contracts under this part to establish and carry out a program under which service providers (including family physicians, clergy, and other professionals) will receive training—

(1) comprised of—

(A) intensive training regarding normal aging, recognition of problems of older individuals, and communication with providers of mental health services; and

(B) advanced clinical training regarding means of assessing and treating the problems of older individuals;

(2) provided by—

(A) faculty and graduate students in programs of human development and family studies at an institution of higher education;

(B) mental health professionals; and

(C) nationally recognized consultants with expertise regarding the mental health problems of individuals residing in rural areas; and

(3) held in public hospitals throughout each State in which the program is carried out.

(42 U.S.C. 3031)

#### MULTIDISCIPLINARY CENTERS OF GERONTOLOGY

SEC. 412. (a) The Commissioner may make grants to public and private nonprofit agencies, organizations, and institutions for the purpose of establishing or supporting multidisciplinary centers of gerontology, and gerontology centers of special emphasis (including emphasis on nutrition, employment, health (including mental health), disabilities (including severe disabilities), income maintenance, counseling services, supportive services and minority populations). Such centers shall conduct research and policy analysis and function as a technical resource for the Commissioner, policy-makers, service providers, and the Congress. Multidisciplinary centers of gerontology shall—

(1) recruit and train personnel;

(2) conduct basic and applied research toward the development of information related to aging;

(3) stimulate the incorporation of information on aging into the teaching of biological, behavioral, and social sciences at colleges and universities;

(4) help to develop training programs in the field of aging at schools of public health, education, social work, and psychology, and other appropriate schools within colleges and universities;

(5) serve as a repository of information and knowledge on aging;

(6) provide consultation and information to public and voluntary organizations, including State agencies and area agencies on aging, which serve the needs of older individuals in planning and developing services provided under other provisions of this Act; and

(7) if appropriate, provide information relating to assistive technology.

(b) Centers supported under this section shall provide data to the Commissioner on the projects and activities for which funds are provided under this title. Such data shall include the number of personnel trained, the number of older individuals served, the number of schools assisted, and other information that will facilitate achieving the objectives of this Act.

(42 U.S.C. 3032)

## PART B—RESEARCH, DEMONSTRATIONS, AND OTHER ACTIVITIES

### PURPOSE

SEC. 420. The purpose of this part is to improve the quality and efficiency of programs serving older individuals through research and development projects, and demonstration projects, designed to—

(1) develop and synthesize knowledge about aging from multidisciplinary perspectives;

(2) establish an information base of data and practical experience;

(3) examine effective models of planning and practice that will improve or enhance services provided under other provisions of this Act;

(4) evaluate the efficacy, quality, efficiency, and accessibility of programs and services for older individuals; and

(5) develop, implement, and evaluate innovative planning and practice strategies to address the needs, concerns, and capabilities of older individuals.

(42 U.S.C. 3034)

### RESEARCH AND DEVELOPMENT PROJECTS

SEC. 421. (a) The Commissioner may make grants to any public or nonprofit private agency, organization, or institution, and may enter into contracts with any agency, organization, institution, or individual to support research and development related to the objectives of this Act, evaluation of the results of such research and development activities, and collection and dissemination of information concerning research findings, demonstration results, and other materials developed in connection with activities assisted under this title, and conducting of conferences and other meetings for purposes of exchange of information and other activities related

to the purposes<sup>1</sup> of this title. Appropriate provisions for the dissemination of resulting information shall be a requirement for all grants made under this section.

(b) Each research and development activity proposal for which funds are requested under subsection (a) shall include a concise policy or practical application statement.

(c)(1) The Commissioner shall select, to the extent practicable, for assistance under subsection (a) research activities which will, not later than three years after the date of the enactment of the Older Americans Act Amendments of 1984, collectively—

(A) contribute to the establishment and maintenance of a demographic data base which contains information on the population of older individuals generally and older individuals categorized by age, sex, race, geographical location, and such other factors as the Commissioner deems useful for the purpose of formulating public policy;

(B) identify the future needs of older individuals;

(C) identify the kinds and comprehensiveness of programs required to satisfy such needs; and

(D) identify the kinds and number of personnel required to carry out such programs.

(2) The Commissioner shall select, to the extent practicable, for assistance under subsection (a) demonstration projects which test research results and implement innovative ways of satisfying the needs of, and delivering services to, older individuals.

(42 U.S.C. 3035)

#### DEMONSTRATION PROJECTS

SEC. 422. (a)(1) The Commissioner may, after consultation with the State agency in the State involved, make grants to any public agency or nonprofit private organization or enter into contracts with any agency or organization within such State for paying part or all of the cost of developing or operating nationwide, statewide, regional, metropolitan area, county, city, or community model projects which will demonstrate methods to improve or expand supportive services or nutrition services or otherwise promote the well-being of older individuals. The Commissioner shall give special consideration to the funding of rural area agencies on aging to conduct model projects devoted to the special needs of older individuals residing in rural areas. Such projects shall include alternative health care delivery systems, advocacy and outreach programs, and transportation services.

(2) The Commissioner may, after consultation with the State agency in the State involved, make grants to or enter into contracts with public or private institutions of higher education having graduate programs with capability in public health, the medical sciences, psychology, pharmacology, nursing, social work, health education, nutrition, or gerontology, for the purpose of designing and developing prototype health education and promotion programs for the use of State and area agencies on aging in implementing

<sup>1</sup> See section 101 for the "objectives" of this Act. This subsection should be amended to strike "purposes" and insert "objectives".

disease prevention and health promotion programs (including coordinated multidisciplinary research projects on the aging process).

(b) In making grants and contracts under subsection (a)(1), the Commissioner shall give special consideration to projects designed to—

(1) meet the supportive services needs of older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction and their families, including—

(A) home health care for such victims;

(B) adult day health care for such victims; and

(C) homemaker aides, transportation, and in-home respite care for the families, particularly spouses, of such victims;

(2) meet the special health care needs of older individuals, including—

(A) the location of older individuals who are in need of mental health services;

(B) the provision of, or arrangement for the provision of, medical differential diagnoses of older individuals to distinguish between their need for mental health services and other medical care;

(C) the specification of the mental health needs of older individuals, and the mental health and support services required to meet such needs;

(D) the provision of—

(i) the mental health and support services specified in subclause (C) in the communities; or

(ii) such services for older individuals in nursing homes and intermediate care facilities, and training of the employees of such homes and facilities in the provision of such services; and

(E) the identification and provision of services to older individuals with severe disabilities;

(3) assist in meeting the special housing needs of older individuals by—

(A) providing financial assistance to such individuals, who own their own homes, necessary to enable them (i) to make the repairs or renovations to their homes, which are necessary for them to meet minimum standards, and (ii) to install security devices, and to make structural modifications or alterations, designed to prevent unlawful entry; and

(B) studying and demonstrating methods of adapting existing housing, or construction of new housing, to meet the needs of older individuals suffering from physical disabilities;

(4) provide education and training to older individuals designed to enable them to lead more productive lives by broadening the education, occupational, cultural, or social awareness of such older individuals;

(5) provide preretirement education information and relevant services (including the training of personnel to carry out such programs and the conduct of research with respect to the

development and operation of such programs) to individuals planning retirement;

(6) meet the special needs of, and improve the delivery of services to, older individuals who are not receiving adequate services under other provisions of this Act, with emphasis on the needs of low-income, minority, Indian, and limited English-speaking individuals and older individuals residing in rural areas;

(7) develop or improve methods of coordinating all available supportive services for the homebound elderly, blind, and disabled by establishing demonstration projects in ten States, in accordance with subsection (c);

(8) improve transportation systems for older individuals residing in rural areas;

(9) provide expanded, innovative volunteer opportunities to older individuals which are designed to fulfill unmet community needs, while at the same time avoiding duplication of existing volunteer programs, which may include projects furnishing multigenerational services by older individuals addressing the needs of children, such as—

(A) tutorial services in elementary and special schools;

(B) after school programs for latchkey children; and

(C) voluntary services for child care and youth day care programs;

(10) meet the service needs of older individuals who provide uncompensated care to their adult children with disabilities, for supportive services relating to such care, including—

(A) respite services; and

(B) legal advice, information, and referral services to assist such older individuals with permanency planning for such children;

(11) advance the understanding of the efficacy and benefits of providing music therapy, art therapy, or dance-movement therapy to older individuals through—

(A) projects that—

(i) study and demonstrate the provision of music therapy, art therapy, or dance-movement therapy to older individuals who are institutionalized or at risk of being institutionalized; and

(ii) provide music therapy, art therapy, or dance-movement therapy—

(I) in nursing homes, hospitals, rehabilitation centers, hospices, or senior centers;

(II) through disease prevention and health promotion services programs established under part F of title III;

(III) through in-home services programs established under part D of title III;

(IV) through multigenerational activities described in section 307(a)(41)(B) or subpart 3 of part C of title III;

(V) through supportive services described in section 321(a)(21); or

(VI) through disease prevention and health promotion services described in section 363(5); and  
 (B) education, training, and information dissemination projects, including—

(i) projects for the provision of gerontological training to music therapists, and education and training of individuals in the aging network regarding the efficacy and benefits of music therapy for older individuals; and

(ii) projects for disseminating to the aging network and to music therapists background materials on music therapy, best practice manuals, and other information on providing music therapy to older individuals; and

(12)(A) establish, in accordance with subparagraph (B), nationwide, statewide, regional, metropolitan area, county, city, or community model volunteer service credit projects to demonstrate methods to improve or expand supportive services or nutrition services, or otherwise promote the wellbeing of older individuals;

(B) for purposes of paying part or all of the cost of developing or operating the projects, in the fiscal year, make not fewer than three and not more than five grants to, or contracts with, public agencies or nonprofit private organizations in such State; and

(C) ensure that the projects will be operated in consultation with the ACTION Agency and will permit older individuals who are volunteers to earn, for services furnished, credits that may be redeemed later for similar volunteer services.

(c) The Commissioner shall consult with the Commissioner of the Rehabilitation Services Administration, the Commissioner of the Social Security Administration, and the Surgeon General of the Public Health Service, to develop procedures for—

(1) identifying elderly, blind, and disabled individuals who need supportive services;

(2) compiling a list in each community of all services available to the elderly, blind, and disabled; and

(3) establishing an information and assistance service within the appropriate community agency to—

(A) inform those in need of the availability of such services; and

(B) coordinate the delivery of such services to the elderly, blind, and disabled.

The Commissioner shall establish procedures for administering demonstration projects under subsection (b)(6) not later than 6 months after the effective date of this subsection. The Commissioner shall report to the Congress with respect to the results and findings of the demonstration projects conducted under this section at the completion of the projects.

(d)(1) Whenever appropriate, grants made and contracts entered into under this section shall be developed in consultation with an appropriate gerontology center.

(2)(A) Grants made and contracts entered into under this section shall include provisions for the appropriate dissemination of project results.

(B) An agency or organization that receives a grant or enters into a contract to carry out a project described in subparagraph (A) or (B)(i) of subsection (b)(11) shall submit to the Commissioner a report containing—

(i) the results, and findings based on the results, of such project; and

(ii) the recommendations of the agency or organization, if the agency or organization provided music therapy, regarding means by which music therapy could be made available, in an efficient and effective manner, to older individuals who would benefit from the therapy.

(42 U.S.C. 3035a)

**SEC. 423. SPECIAL PROJECTS IN COMPREHENSIVE LONG-TERM CARE.**

(a) DEFINITIONS.—As used in this section:

(1) PROJECT.—The term “Project” means a Project to Improve the Delivery of Long-Term Care Services.

(2) RESOURCE CENTER.—The term “Resource Center” means a Resource Center for Long-Term Care.

(b) RESOURCE CENTERS.—

(1) GRANTS AND CONTRACTS.—The Commissioner shall award grants to, or enter into contracts with, eligible entities to support the establishment or operation of not fewer than four and not more than seven Resource Centers in accordance with paragraph (2).

(2) REQUIREMENTS.—

(A) FUNCTIONS.—Each Resource Center that receives funds under this subsection shall, with respect to subjects within an area of specialty of the Resource Center—

(i) perform research;

(ii) provide for the dissemination of results of the research; and

(iii) provide technical assistance and training to State agencies and area agencies on aging.

(B) AREA OF SPECIALITY.—For purposes of subparagraph (A) the term “area of specialty” means—

(i) Alzheimer’s disease and related dementias, and other cognitive impairments;

(ii) client assessment and case management;

(iii) data collection and analysis;

(iv) home modification and supportive services to enable older individuals to remain in their homes;

(v) consolidation and coordination of services;

(vi) linkages between acute care, rehabilitative services, and long-term care, facilities and providers;

(vii) decisionmaking and bioethics;

(viii) supply, training, and quality of long-term care personnel, including those who provide rehabilitative services;

(ix) rural issues, including barriers to access to services;

(x) chronic mental illness;

(xi) populations with greatest social need and populations with greatest economic need, with particular attention to low-income minorities; and

(xii) an area of importance as determined by the Commissioner.

(c) **PROJECTS.**—The Commissioner shall award grants to, or enter into contracts with, eligible entities to support the entities in establishing and carrying out not fewer than 10 Projects.

(d) **USE OF FUNDS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), an eligible entity may use funds received under a grant or contract—

(A) described in subsection (b)(1) to pay for part or all of the cost (including startup cost) of establishing and operating a new Resource Center, or of operating a Resource Center in existence on the day before the date of the enactment of the Older Americans Act Amendments of 1992; or

(B) described in subsection (c) to pay for part or all of the cost (including startup cost) of establishing and carrying out a Project.

(2) **REIMBURSABLE DIRECT SERVICES.**—None of the funds may be used to pay for direct services that are eligible for reimbursement under title XVIII, XIX, or XX of the Social Security Act (42 U.S.C. 1395 et seq., 1396 et seq., or 1397 et seq.).

(e) **PREFERENCE.**—In awarding grants, and entering into contracts, under this section, the Commissioner shall give preference to entities that demonstrate that—

(1) adequate State standards have been developed to ensure the quality of services provided under the grant or contract; and

(2) the entity has made a commitment to carry out programs under the grant or contract with each State agency responsible for the administration of title XIX or XX of the Social Security Act.

(f) **APPLICATION.**—

(1) **IN GENERAL.**—To be eligible to receive funds under a grant or contract described in subsection (b)(1) or (c), an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

(2) **PROJECT APPLICATION.**—An entity seeking a grant or contract under subsection (c) shall submit an application to the Commissioner containing, at a minimum—

(A) information identifying and describing gaps, weaknesses, or other problems in the delivery of long-term care services in the State or geographic area to be served by the entity, including—

(i) duplication of functions in the delivery of such services, including duplication at the State and local level;

(ii) fragmentation of systems, especially in coordinating services to populations of older individuals and other populations;

(iii) barriers to access for populations with greatest social need and populations with greatest economic need, including minorities and residents of rural areas;

(iv) lack of financing for such services;

(v) lack of availability of adequately trained personnel to provide such services; and

(vi) lack of a range of chronic care services (including rehabilitative strategies) that promote restoration, maintenance, or improvement of function in older individuals;

(B) a plan to address the gaps, weaknesses, and problems described in clauses (i) through (v); and

(C) information describing the extent to which the entity will coordinate with area agencies on aging and service providers in carrying out the proposed Project.

**(g) ELIGIBLE ENTITIES.—**

(1) **RESOURCE CENTERS.**—Entities eligible to receive grants, or enter into contracts, under subsection (b)(1) shall be—

(A) institutions of higher education; and

(B) other public agencies and nonprofit private organizations.

(2) **PROJECTS.**—Entities eligible to receive grants, or enter into contracts, under subsection (c) include—

(A) State agencies; and

(B) in consultation with State agencies—

(i) area agencies on aging;

(ii) institutions of higher education; and

(iii) other public agencies and nonprofit private organizations.

(h) **REPORT.**—The Commissioner shall include in the annual report to the Congress required by section 207, a report on the grants awarded, and contracts entered into, under this section, including—

(1) an analysis of the relative effectiveness, and recommendations for any changes, of the projects of Resource Centers funded under subsection (b)(1) in the fiscal year for which the Commissioner is preparing the annual report; and

(2) an evaluation of the needs identified, the agencies utilized, and the effectiveness of the approaches used by projects funded under subsection (c).

(i) **AVAILABILITY OF FUNDS.**—The Commissioner shall make available for carrying out subsection (b) for each fiscal year not less than the amount made available in fiscal year 1991 for making grants and entering into contracts to establish and operate Resource Centers under section 423 as in effect on the day before the date of the enactment of the Older Americans Act Amendments of 1992.

## SPECIAL DEMONSTRATION AND SUPPORT PROJECTS FOR LEGAL ASSISTANCE FOR OLDER INDIVIDUALS

SEC. 424. (a) The Commissioner shall make grants and enter into contracts, in order to—

(1) provide a national legal assistance support system (operated by one or more grantees or contractors) of activities to State and area agencies on aging for providing, developing, or supporting legal assistance for older individuals, including—

(A) case consultations;

(B) training;

(C) provision of substantive legal advice and assistance; and

(D) assistance in the design, implementation, and administration of legal assistance delivery systems to local providers of legal assistance for older individuals; and

(2) support demonstration projects to expand or improve the delivery of legal assistance to older individuals with social or economic needs.

(b) Any grants or contracts made under subsection (a)(2) shall contain assurances that the requirements of section 307(a)(15) are met.

(c) To carry out subsection (a)(1), the Commissioner shall make grants to or enter into contracts with national nonprofit legal assistance organizations experienced in providing support, on a nationwide basis, to local legal assistance providers.

(42 U.S.C. 3035c)

## NATIONAL IMPACT ACTIVITIES

SEC. 425. (a)(1) The Commissioner may carry out directly or through grants or contracts—

(A) innovation and development projects and activities of national significance which show promise of having substantial impact on the expansion or improvement of supportive services, nutrition services, or multipurpose senior centers, or otherwise promoting the well-being of older individuals; and

(B) dissemination of information activities related to such programs.

(2) The Commissioner shall carry out, directly or through grants or contracts, special training programs and technical assistance designed to improve services to minorities.

(b) An amount not to exceed 15 percent of any sums appropriated under section 431 may be used for carrying out this section.

(42 U.S.C. 3035d)

## UTILITY AND HOME HEATING COST DEMONSTRATION PROJECTS

SEC. 426. The Secretary may, after consultation with the appropriate State agency, make grants to pay for part or all of the costs of developing model projects which show promise of relieving older individuals of the excessive burdens of high utility service and home heating costs. Any such project shall give special consideration to projects under which a business concern is engaged in providing home heating oil or utility services to low-income older

individuals at a cost which is substantially lower than providing home heating oil or utility services to other individuals.

(42 U.S.C. 3035e)

#### OMBUDSMAN AND ADVOCACY DEMONSTRATION PROJECTS

SEC. 427. (a) The Commissioner is authorized to make grants to not less than three nor more than ten States to demonstrate and evaluate cooperative projects between the State long-term care ombudsman program, legal assistance agencies, and the State protection and advocacy systems for developmental disabilities and mental illness, established under part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.) and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (Public Law 99-319).

(b) The Commissioner on Aging shall prepare and submit to the Congress a report of the study and evaluation required by subsection (a). Such report shall contain such recommendations as the Commissioner on Aging deems appropriate.

(42 U.S.C. 3035f)

#### CONSUMER PROTECTION DEMONSTRATION PROJECTS FOR SERVICES PROVIDED IN THE HOME

SEC. 428. (a)(1) The Commissioner is authorized to make grants to not fewer than 6 nor more than 10 States to demonstrate and evaluate the effectiveness of consumer protection projects for services (other than medical services) provided to older individuals in the home that are furnished or assisted with public funds.

(2) Grants made under this section shall be used to test different approaches to protecting older individuals with regard to services in the home. Such projects may provide consumer protection through State and local ombudsmen, legal assistance agencies, and other community service agencies.

(b) No grant may be made under this section unless an application is made to the Commissioner at such time, in such manner, and containing such information as the Commissioner may reasonably require. Each such application shall—

(1) describe activities for which assistance is sought;

(2) provide for an evaluation of the activities for which assistance is sought; and

(3) provide assurances that the applicant will prepare and submit a report to the Commissioner on the activities conducted with assistance under this section and the evaluation of such activities.

(c) In approving applications under this section, the Commissioner shall assure equitable geographic distribution of assistance.

(d) The Commissioner shall, as part of the annual report submitted under section 207, prepare and submit a report on the evaluations submitted under this section, together with such recommendations as the Commissioner deems appropriate. In carrying out this section, the Commissioner shall include in the report—

(1) a description of the demonstration projects assisted under this section;

(2) an evaluation of the effectiveness of each such project; and

(3) recommendations of the Commissioner with respect to the desirability and feasibility of carrying out on a nationwide basis a consumer protection program for services in the home.

(e) Consumer protection projects carried out under this section—

(1) may include, but are not limited to, consumer education, the use of consumer hotlines, receipt and resolution of consumer complaints, and advocacy; and

(2) may not address medical services.

(42 U.S.C. 3035g)

#### **SEC. 429. DEMONSTRATION PROJECTS FOR MULTIGENERATIONAL ACTIVITIES.**

(a) **GRANTS AND CONTRACTS.**—The Commissioner may award grants and enter into contracts with eligible organizations to establish demonstration projects that provide older individuals with multigenerational activities.

(b) **USE OF FUNDS.**—An eligible organization shall use funds made available under a grant awarded, or a contract entered into, under subsection (a)—

(1) to carry out a demonstration project that provides multigenerational activities, including any professional training appropriate to such activities for older individuals; and

(2) to evaluate the project in accordance with subsection

(f).

(c) **AWARDS.**—In awarding grants and entering into contracts under subsection (a), the Commissioner shall give preference to—

(1) eligible organizations with a demonstrated record of carrying out multigenerational activities; and

(2) eligible organizations proposing projects that will serve older individuals with greatest economic need (with particular attention to low-income minority individuals).

(d) **APPLICATION.**—To be eligible to receive a grant or enter into a contract under subsection (a), an organization shall submit an application to the Commissioner at such time, in such manner, and accompanied by such information as the Commissioner may reasonably require.

(e) **ELIGIBLE ORGANIZATIONS.**—Organizations eligible to receive a grant or enter into a contract under subsection (a) shall be organizations that employ, or provide opportunities for, older individuals in multigenerational activities.

(f) **LOCAL EVALUATION AND REPORT.**—

(1) **EVALUATION.**—Each organization receiving a grant or a contract under subsection (a) to carry out a demonstration project shall evaluate the activities assisted under the project to determine the effectiveness of multigenerational activities, the impact of such activities on child care and youth day care programs, and the impact on older individuals involved in such project.

(2) **REPORT.**—The organization shall submit a report to the Commissioner containing the evaluation not later than 6

months after the expiration of the period for which the grant or contract is in effect.

(g) **REPORT TO CONGRESS.**—Not later than 6 months after the Commissioner receives the reports described in subsection (f)(2), the Commissioner shall prepare and submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that assesses the evaluations and includes, at a minimum—

(1) the names or descriptive titles of the demonstration projects funded under subsection (a);

(2) a description of the nature and operation of the projects;

(3) the name and address of the individual or governmental entity that conducted the projects;

(4) a description of the methods and success of the projects in recruiting older individuals as employees and volunteers to participate in the project;

(5) a description of the success of the projects retaining older individuals involved in the projects as employees and as volunteers; and

(6) the rate of turnover of older individual employees and volunteers in the projects.

(h) **DEFINITION.**—As used in this section, the term “multigenerational activity” includes an opportunity to serve as a mentor or adviser in a child care program, a youth day care program, an educational assistance program, an at-risk youth intervention program, a juvenile delinquency treatment program, or a family support program.

(42 U.S.C. 3035h)

**SEC. 429A. SUPPORTIVE SERVICES IN FEDERALLY ASSISTED HOUSING DEMONSTRATION PROGRAM.**

(a) **GRANTS.**—The Commissioner shall award grants to eligible agencies to establish demonstration programs to provide services described in subsection (b) to older individuals who are residents in federally assisted housing (referred to in this section as “residents”).

(b) **USE OF GRANTS.**—An eligible agency shall use a grant awarded under subsection (a) to conduct outreach and to provide to residents services including—

(1) meal services;

(2) transportation;

(3) personal care, dressing, bathing, and toileting;

(4) housekeeping and chore assistance;

(5) nonmedical counseling;

(6) case management;

(7) other services to prevent premature and unnecessary institutionalization; and

(8) other services provided under this Act.

(c) **AWARD OF GRANTS.**—The Commissioner shall award grants under subsection (a) to agencies in a variety of geographic settings, including urban and rural settings.

(d) **APPLICATION.**—To be eligible to receive a grant under subsection (a), an agency shall submit an application to the Com-

missioner at such time, in such manner, and containing such information as the Commissioner may require, including, at a minimum—

(1) information demonstrating a lack of, and need for, services described in subsection (b) in federally assisted housing projects in the geographic area proposed to be served by the applicant;

(2) a comprehensive plan to coordinate with housing facility management to provide services to frail older individuals who are in danger of premature or unnecessary institutionalization;

(3) information demonstrating initiative on the part of the agency to address the supportive service needs of residents;

(4) information demonstrating financial, in-kind, or other support available to the applicant from State or local governments, or from private resources;

(5) an assurance that the agency will participate in the development of the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) and seek funding for supportive services under the Department of Housing and Urban Development or the Farmers Home Administration;

(6) an assurance that the agency will target services to low-income minority older individuals and conduct outreach;

(7) an assurance that the agency will comply with the guidelines described in subsection (f); and

(8) a plan to evaluate the eligibility of older individuals for services under the federally assisted housing demonstration program, which plan shall include a professional assessment committee to identify such individuals.

(e) ELIGIBLE AGENCIES.—Agencies eligible to receive grants under this section shall be State agencies and area agencies on aging.

(f) GUIDELINES.—The Commissioner shall issue guidelines for use by agencies that receive grants under this section—

(1) regarding the level of frailty that older individuals shall meet to be eligible for services under a demonstration program established under this section; and

(2) for accepting voluntary contributions from residents who receive services under such a program.

(g) EVALUATIONS AND REPORTS.—

(1) AGENCIES.—Each agency that receives a grant under subsection (a) to establish a demonstration program shall, not later than 3 months after the end of the period for which the grant is awarded—

(A) evaluate the effectiveness of the program; and

(B) submit a report containing the evaluation to the Commissioner.

(2) COMMISSIONER.—The Commissioner shall, not later than 6 months after the end of the period for which the Commissioner awards grants under subsection (a)—

(A) evaluate the effectiveness of each demonstration program that receives a grant under subsection (a); and

(B) submit a report containing the evaluation to the Speaker of the House of Representatives and the President pro tempore of the Senate.

(42 U.S.C. 3035i)

**SEC. 429B. NEIGHBORHOOD SENIOR CARE PROGRAM.**

(a) **DEFINITIONS.**—As used in this section:

(1) **HEALTH AND SOCIAL SERVICES.**—The term “health and social services” includes skilled nursing care, personal care, social work services, homemaker services, health and nutrition education, health screening, home health aid services, and specialized therapies.

(2) **VOLUNTEER SERVICES.**—The term “volunteer services” includes peer counseling, chore services, help with mail and taxes, transportation, socialization, health and social services, and other similar services.

(b) **SERVICE GRANTS.**—

(1) **IN GENERAL.**—The Commissioner may award grants to eligible entities to establish neighborhood senior care programs, in order to encourage professionals to provide volunteer services to local residents who are older individuals and who might otherwise have to be admitted to nursing homes and to hospitals.

(2) **PREFERENCE.**—In awarding grants under this section, the Commissioner shall give preference to applicants experienced in operating community programs and programs meeting the independent living needs of older individuals.

(3) **ADVISORY BOARD.**—The Commissioner shall establish an advisory board to provide guidance to grant recipients regarding the neighborhood senior care programs. Not fewer than two-thirds of the members of the advisory board shall be residents in communities served by the grant recipients.

(4) **APPLICATION.**—To be eligible to receive a grant under this section, an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may reasonably require. Each application shall—

(A) describe the activities in the program for which assistance is sought;

(B) describe the neighborhood in which volunteer services are to be provided under the program, and a plan for integration of volunteer services within the neighborhood;

(C)(i) provide assurances that nurses, social workers, and community volunteers providing volunteer services and an outreach coordinator involved with the project live in the neighborhood; or

(ii)(I) reasons that it is not possible to provide such assurances; and

(II) assurances that nurses, social workers, community volunteers and the outreach coordinator will be assigned repeatedly to the particular neighborhood; and

(D) provide for an evaluation of the activities for which assistance is sought.

(c) **TECHNICAL RESOURCE CENTER.**—The Commissioner shall, to the extent appropriations are available, enter into a contract with an applicant described in subsection (b)(2) to establish a technical resource center that will—

(1) assist the Commissioner in developing criteria for, and in awarding grants to communities to establish, neighborhood senior care organizations that will implement neighborhood senior care programs under subsection (b);

(2) assist communities interested in establishing such a neighborhood senior care program;

(3) coordinate the neighborhood senior care programs;

(4) provide ongoing analysis of and collection of data on the neighborhood senior care programs and provide such data to the Commissioner;

(5) serve as a liaison to State agencies interested in establishing neighborhood senior care programs; and

(6) take any further actions as required by regulation by the Commissioner.

(42 U.S.C. 3035j)

**SEC. 429C. INFORMATION AND ASSISTANCE SYSTEMS DEVELOPMENT PROJECTS.**

(a) **GRANTS.**—The Commissioner may—

(1) make grants to State agencies, and, in consultation with State agencies, to area agencies on aging to support the improvement of information and assistance services, and systems of services, operated at the State and local levels; and

(2) make grants to organizations to provide training and technical assistance to State agencies, area agencies on aging, and providers of supportive services—

(A) to support a national telephone access service to inform older individuals, families, and caregivers about State and local information and assistance services funded under this Act; and

(B) to support the improvement of information and assistance services, and systems of services, operated at the State and local levels.

(b) **APPLICATION.**—To be eligible to receive a grant under subsection (a) an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may specify.

(c) **GUIDELINES.**—The Commissioner shall establish guidelines for the operation of the national telephone access service described in subsection (a)(2)(A).

(d) **EVALUATION AND REPORT.**—

(1) **EVALUATION.**—The Commissioner shall conduct an evaluation of the effectiveness of the national telephone service described in subsection (a)(2)(A) in providing information and assistance services to older individuals, families, and caregivers about State and local information and assistance services.

(2) **REPORT.**—Not later than January 1, 1995, the Commissioner shall submit the evaluation described in paragraph (1)

to the Speaker of the House of Representatives and the President pro tempore of the Senate.

(42 U.S.C. 3035k)

**SEC. 429D. SENIOR TRANSPORTATION DEMONSTRATION PROGRAM GRANTS.**

(a) **ESTABLISHMENT.**—The Commissioner shall establish and carry out senior transportation demonstration programs. In carrying out the programs, the Commissioner shall award grants to not fewer than five eligible entities for the purpose of improving the mobility of older individuals and transportation services for older individuals (referred to in this section as “senior transportation services”).

(b) **USE OF FUNDS.**—Grants made under subsection (a) may be used to—

(1) develop innovative approaches for improving access by older individuals to supportive services under part B of title III, nutrition services under part C of title III, health care, and other important services;

(2) develop comprehensive and integrated senior transportation services; and

(3) leverage additional resources for senior transportation services by—

(A) coordinating various transportation services; and

(B) coordinating various funding sources for transportation services, including—

(i) sources of assistance under—

(I) sections 9, 16(b)(2), and 18 of the Urban Mass Transportation Act of 1964 (49 U.S.C. App.); and

(II) titles XIX and XX of the Social Security Act (42 U.S.C. 1396 et seq. and 1397 et seq.); and

(ii) State and local sources.

(c) **AWARD OF GRANTS.**—

(1) **PREFERENCE.**—In awarding grants under subsection (a), the Commissioner shall give preference to entities that—

(A) demonstrate special needs for enhancing senior transportation services and resources for the services within the geographic area served by the entities;

(B) establish plans to ensure that senior transportation services are coordinated with general public transportation services and other specialized transportation services;

(C) demonstrate the ability to utilize the broadest range of available transportation and community resources to provide senior transportation services;

(D) demonstrate the capacity and willingness to coordinate senior transportation services with services provided under title III and with general public transportation services and other specialized transportation services; and

(E) establish plans for senior transportation demonstration programs designed to serve the special needs of

low-income, rural, frail, and other at-risk, transit-dependent older individuals.

(2) **RURAL ENTITIES.**—The Commissioner shall award not less than 50 percent of the grants authorized under this section to entities located in, or primarily serving, rural areas.

(d) **APPLICATION.**—An entity that seeks a grant under this section shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including at a minimum—

(1) information describing senior transportation services for which the entity seeks assistance;

(2) a comprehensive strategy for developing a coordinated transportation system or leveraging additional funding resources, to provide senior transportation services;

(3) information describing the extent to which the applicant intends to coordinate the services of the applicant with the services of other transportation providers;

(4) a plan for evaluating the effectiveness of the proposed senior transportation demonstration program and preparing a report containing the evaluation to be submitted to the Commissioner; and

(5) such other information as may be required by the Commissioner.

(e) **ELIGIBLE ENTITIES.**—Entities eligible to receive grants under this section shall be—

(1) State agencies;

(2) area agencies on aging; and

(3) other public agencies and nonprofit organizations.

(f) **REPORT.**—

(1) **PREPARATION.**—The Commissioner shall prepare, either directly or through grants or contracts, annual reports on the senior transportation demonstration programs established under this section. The reports shall contain an assessment of the effectiveness of each demonstration project and recommendations regarding legislative, administrative, and other initiatives needed to improve the access to and effectiveness of transportation services for older individuals.

(2) **SUBMISSION.**—The Commissioner shall submit the report described in paragraph (1) to the Speaker of the House of Representatives and the President pro tempore of the Senate.

(42 U.S.C. 30351)

#### **SEC. 429E. RESOURCE CENTERS ON NATIVE AMERICAN ELDERS.**

(a) **ESTABLISHMENT.**—The Commissioner shall make grants or enter into contracts with not fewer than two and not more than four eligible entities to establish and operate Resource Centers on Native American Elders (referred to in this section as "Resource Centers"). The Commissioner shall make such grants or enter into such contracts for periods of not less than 3 years.

(b) **FUNCTIONS.**—

(1) **IN GENERAL.**—Each Resource Center that receives funds under this section shall—

(A) gather information;

(B) perform research;

(C) provide for the dissemination of results of the research; and

(D) provide technical assistance and training to entities that provide services to Native Americans who are older individuals.

(2) **AREAS OF CONCERN.**—In conducting the functions described in paragraph (1), a Resource Center shall focus on priority areas of concern for the Resource Centers regarding Native Americans who are older individuals, which areas shall be—

(A) health problems;

(B) long-term care, including in-home care;

(C) elder abuse; and

(D) other problems and issues that the Commissioner determines are of particular importance to Native Americans who are older individuals.

(c) **PREFERENCE.**—In awarding grants and entering into contracts under subsection (a), the Commissioner shall give preference to institutions of higher education that have conducted research on, and assessment of, the characteristics and needs of Native Americans who are older individuals.

(d) **CONSULTATION.**—In determining the type of information to be sought from, and activities to be performed by, Resource Centers, the Commissioner shall consult with the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging and with national organizations with special expertise in serving Native Americans who are older individuals.

(e) **ELIGIBLE ENTITIES.**—Entities eligible to receive a grant or enter into a contract under subsection (a) shall be institutions of higher education with experience conducting research and assessment on the needs of older individuals.

(f) **REPORT TO CONGRESS.**—The Commissioner, with assistance from each Resource Center, shall prepare and submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an annual report on the status and needs including the priority areas of concern of Native Americans who are older individuals.

(42 U.S.C. 3035m)

**SEC. 429F. DEMONSTRATION PROGRAMS FOR OLDER INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.**

(a) **DEFINITION.**—As used in this section:

(1) **DEVELOPMENTAL DISABILITY.**—The term “developmental disability” has the meaning given the term in section 102(5) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(5)).

(2) **IN-HOME SERVICE.**—The term “in-home service” has the meaning given the term in section 342.

(b) **ESTABLISHMENT.**—The Commissioner shall make grants to State agencies to provide services in accordance with subsection (c).

(c) **USE OF FUNDS.**—A State agency may use a grant awarded under subsection (b) to provide services for older individuals with developmental disabilities, and for older individuals with caretaker responsibilities for developmentally disabled children, including—

- (1) child care and youth day care programs;
- (2) programs to integrate the individuals into existing programs for older individuals;
- (3) respite care;
- (4) transportation to multipurpose senior centers and other facilities and services;
- (5) supervision;
- (6) renovation of multipurpose senior centers;
- (7) provision of materials to facilitate activities for older individuals with developmental disabilities, and for older individuals with caretaker responsibilities for developmentally disabled children;
- (8) training of State agency, area agency on aging, volunteer, and multipurpose senior center staff, and other service providers, who work with such individuals; and
- (9) in-home services.

(d) APPLICATION.—To be eligible to receive a grant under this section, a State agency shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

(42 U.S.C. 3035n)

#### SEC. 429G. HOUSING DEMONSTRATION PROGRAMS.

(a) HOUSING OMBUDSMAN DEMONSTRATION PROGRAMS.—

(1) GRANTS.—The Commissioner shall award grants to eligible agencies to establish housing ombudsman programs.

(2) USE OF GRANTS.—An eligible agency shall use a grant awarded under paragraph (1) to—

(A) provide the services described in subparagraph (B) through—

(i) professional and volunteer staff to older individuals who are—

(I) participating in federally assisted and other publicly assisted housing programs; or

(II) seeking Federal, State, and local housing programs; and

(ii)(I) the State Long-Term Care Ombudsman program under section 307(a)(12) or section 712;

(II) a legal services or assistance organization or through an organization that provides both legal and other social services;

(III) a public or not-for-profit social services agency; or

(IV) an agency or organization concerned with housing issues but not responsible for publicly assisted housing.<sup>1</sup>

(B) establish a housing ombudsman program that provides information, advice, and advocacy services including—

(i) direct assistance, or referral to services, to resolve complaints or problems;

<sup>1</sup>Error in amendment made by section 416 of Public Law 102-375. Should strike the period and insert a comma.

(ii) provision of information regarding available housing programs, eligibility, requirements, and application processes;

(iii) counseling or assistance with financial, social, familial, or other related matters that may affect or be influenced by housing problems;

(iv) advocacy related to promoting—

(I) the rights of the older individuals who are residents in publicly assisted housing programs; and

(II) the quality and suitability of housing in the programs; and

(v) assistance with problems related to housing regarding—

(I) threats of eviction or eviction notices;

(II) older buildings;

(III) functional impairments as the impairments relate to housing;

(IV) unlawful discrimination;

(V) regulations of the Department of Housing and Urban Development and the Farmers Home Administration;

(VI) disability issues;

(VII) intimidation, harassment, or arbitrary management rules;

(VIII) grievance procedures;

(IX) certification and recertification related to programs of the Department of Housing and Urban Development and the Farmers Home Administration; and

(X) issues related to transfer from one project or program to another; and

(3) AWARD OF GRANTS.—The Commissioner shall award grants under paragraph (1) to agencies in rural, urban, and other settings.

(4) APPLICATION.—To be eligible to receive a grant under paragraph (1), an agency shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including, at a minimum—

(A) an assurance that the agency will conduct training of professional and volunteer staff who will provide services through the housing ombudsman demonstration program;

(B) in the case of an application submitted by an area agency on aging, an endorsement of the program by the State agency serving the State in which the program will be established, and an assurance by the State agency that the agency will work with the area agency in carrying out the program; and

(C) a plan to involve in the demonstration program the Secretary of the Department of Housing and Urban Development, the Administrator of the Farmers Home Administration, any individual or entity described in paragraph

(2)(A) through which the agency intends to provide the services, and other agencies involved in publicly assisted housing programs.

(5) ELIGIBLE AGENCIES.—Agencies eligible to receive grants under this section shall include—

(A) State agencies;

(B) area agencies on aging; and

(C) other nonprofit entities, including providers of services under the State Long-Term Care Ombudsman program and the elder rights and legal assistance development program described in chapters 2 and 4, respectively, of subtitle A of title VII.

(b) FORECLOSURE AND EVICTION ASSISTANCE AND RELIEF SERVICES DEMONSTRATION PROGRAMS.—

(1) GRANTS.—The Commissioner shall make grants to States to carry out demonstration programs to develop methods or implement laws—

(A) to prevent or delay the foreclosure on housing owned and occupied by older individuals or the eviction of older individuals from housing the individuals rent;

(B) to obtain alternative housing as a result of such foreclosure or eviction; and

(C) to assist older individuals to understand the rights and obligations of the individuals under laws relating to housing ownership and occupancy.

(2) NOTIFICATION PROCESS.—A State that receives a grant under paragraph (1) shall establish methods, including a notification process—

(A) to assist older individuals who are incapable of, or have difficulty in, understanding the circumstances and consequences of foreclosure on or eviction from housing the individuals occupy; and

(B) to coordinate the program for which such grant is received with the activities of tenant organizations, tenant-landlord mediation organizations, public housing entities, and area agencies on aging, to provide more effectively assistance or referral to services to relocate or prevent eviction of older individuals from housing the individuals occupy.

(c) EVALUATIONS AND REPORTS.—

(1) AGENCIES.—Each agency or State that receives a grant under subsection (a) or (b) to establish a demonstration program shall, not later than 3 months after the end of the period for which the grant is awarded—

(A) evaluate the effectiveness of the program; and

(B) submit a report containing the evaluation to the Commissioner.

(2) COMMISSIONER.—The Commissioner shall, not later than 6 months after the end of the period for which the Commissioner awards a grant under subsection (a) or (b)—

(A) evaluate the effectiveness of each demonstration program that receives the grant; and

(B) submit a report containing the evaluation to the Speaker of the House of Representatives and the President pro tempore of the Senate.

(42 U.S.C. 3035o)

**SEC. 429H. PRIVATE RESOURCE ENHANCEMENT PROJECTS.**

**(a) GRANTS.—**

(1) **IN GENERAL.**—The Commissioner may make grants to, and enter into contracts with, State agencies and area agencies on aging, to carry out demonstration projects that generate non-Federal resources (including cash and in-kind contributions), in order to increase resources available to provide additional services under title III.

(2) **MAINTENANCE OF RESOURCES.**—Resources generated with a grant made, or contract entered into, under subsection (a) shall be in addition to, and may not be used to supplant, any resource that is or would otherwise be available under any Federal, State, or local law to a State, State agency, area agency on aging, or unit of general purpose local government (as defined in section 302(2)) to provide such services.

(3) **USE OF RESOURCES.**—Resources generated with a grant made, or a contract entered into, under subsection (a) shall be used to provide supportive services in accordance with title III. The requirements under this Act that apply to funds received under title III by States to carry out title III shall apply with respect to such resources.

**(b) AWARD OF GRANTS AND CONTRACTS.—**

(1) **REGIONAL DISTRIBUTION.**—The Commissioner shall ensure that States and area agencies on aging in all standard Federal regions of the United States, established by the Office of Management and Budget, receive grants and contracts under subsection (a) on an equitable basis.

(2) **DISTRIBUTION BASED ON NEED.**—Within such regions, the Commissioner shall give preference to applicants that provide services under title III in geographical areas that contain a large number of older individuals with greatest economic need or older individuals with greatest social need.

**(c) MONITORING.**—The Commissioner shall monitor how—

(1) grants are expended, and contracts are carried out, under subsection (a); and

(2) resources generated under such grants and contracts are expended,

to ensure compliance with this section.

(42 U.S.C. 3035p)

**SEC. 429I. CAREER PREPARATION FOR THE FIELD OF AGING.**

(a) **GRANTS.**—The Commissioner shall make grants to institutions of higher education, historically black colleges or universities, Hispanic Centers of Excellence in Applied Gerontology, and other educational institutions that serve the needs of minority students, to provide education and training to prepare students for careers in the field of aging.

**(b) DEFINITIONS.**—For purposes of subsection (a):

(1) **HISPANIC CENTER OF EXCELLENCE IN APPLIED GERONTOLOGY.**—The term “Hispanic Center of Excellence in Applied

Gerontology” means an institution of higher education with a program in applied gerontology that—

(A) has a significant number of Hispanic individuals enrolled in the program, including individuals accepted for enrollment in the program;

(B) has been effective in assisting Hispanic students of the program to complete the program and receive the degree involved;

(C) has been effective in recruiting Hispanic individuals to attend the program, including providing scholarships and other financial assistance to such individuals and encouraging Hispanic students of secondary educational institutions to attend the program; and

(D) has made significant recruitment efforts to increase the number and placement of Hispanic individuals serving in faculty or administrative positions in the program.

(2) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term “historically black college or university” has the meaning given the term “part B institution” in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

(42 U.S.C. 3035q)

#### SEC. 429J. PENSION RIGHTS DEMONSTRATION PROJECTS.

(a) DEFINITIONS.—As used in this section:

(1) PENSION RIGHTS INFORMATION PROGRAM.—The term “pension rights information program” means a program described in subsection (c).

(2) PENSION AND OTHER RETIREMENT BENEFITS.—The term “pension and other retirement benefits” means private, civil service, and other public pensions and retirement benefits, including benefits provided under—

(A) the Social Security program under title II of the Social Security Act (42 U.S.C. 401 et seq.);

(B) the railroad retirement program under the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.);

(C) the government retirement benefits programs under the Civil Service Retirement System set forth in chapter 83 of title 5, United States Code, the Federal Employees Retirement System set forth in chapter 84 of title 5, United States Code, or other Federal retirement systems; or

(D) the Employee Retirement Income Security Act (29 U.S.C. 1001 et seq.).

(b) ESTABLISHMENT.—The Commissioner shall establish and carry out pension rights demonstration projects.

(c) PENSION RIGHTS INFORMATION PROGRAMS.—

(1) USE OF FUNDS.—In carrying out the projects specified in subsection (b), the Commissioner shall, to the extent appropriations are available, award grants to six eligible entities to establish programs to provide outreach, information, counseling, referral, and assistance regarding pension and other retirement benefits, and rights related to such benefits.

(2) AWARD OF GRANTS.—

(A) TYPE OF ENTITY.—The Commissioner shall award under this subsection—

(i) four grants to State agencies or area agencies on aging; and

(ii) two grants to nonprofit organizations with a proven record of providing—

(I) services related to retirement of older individuals; or

(II) specific pension rights counseling.

(B) PANEL.—In awarding grants under this subsection, the Commissioner shall use a citizen advisory panel that shall include representatives of business, labor, national senior advocates, and national pension rights advocates.

(C) CRITERIA.—In awarding grants under this subsection, the Commissioner, in consultation with the panel, shall use as criteria—

(i) evidence of commitment of an agency or organization to carry out a proposed pension rights information program;

(ii) the ability of the agency or organization to perform effective outreach to affected populations, particularly populations identified as in need of special outreach; and

(iii) reliable information that the population to be served by the agency or organization has a demonstrable need for the services proposed to be provided under the program.

(3) APPLICATION.—

(A) IN GENERAL.—To be eligible to receive a grant under this subsection, an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including, at a minimum—

(i) a plan for the establishment of a pension rights information program to serve a specific geographic area; and

(ii) an assurance that staff members (including volunteer staff members) have no conflict of interest in providing the services described in the plan.

(B) PLAN.—The plan described in paragraph (1) shall provide for a program that—

(i) establishes a State or area pension rights information center;

(ii) provides counseling (including direct counseling and assistance to individuals needing information) and information that may assist individuals in establishing rights to, obtaining, and filing claims or complaints related to, pension and other retirement benefits;

(iii) provides information on sources of pension and other retirement benefits, including the benefits under programs described in subsection (a)(1);

(iv) makes referrals to legal services and other advocacy programs;

(v) establishes a system of referral to State, local, and Federal departments or agencies related to pension and other retirement benefits;

(vi) provides a sufficient number of staff positions (including volunteer positions) to ensure information, counseling, referral, and assistance regarding pension and other retirement benefits;

(vii) provides training programs for staff members, including volunteer staff members of the programs described in subsection (a)(1);

(viii) makes recommendations to the Administration, the Department of Labor and other local, State, and Federal agencies concerning issues for older individuals related to pension and other retirement benefits; and

(ix) establishes an outreach program to provide information, counseling, referral, and assistance regarding pension and other retirement benefits, with particular emphasis on outreach to women, minorities, and low-income retirees.

**(d) TRAINING PROGRAM.—**

(1) **USE OF FUNDS.—**In carrying out the projects described in subsection (b), the Commissioner shall, to the extent appropriations are available, award a grant to an eligible entity to establish a training program to provide—

(A) information to the staffs of entities operating pension rights information programs; and

(B) assistance to the entities and assist such entities in the design of program evaluation tools.

(2) **ELIGIBLE ENTITY.—**Entities eligible to receive grants under this subsection include nonprofit private organizations with records of providing national information, referral, and advocacy in matters related to pension and other retirement benefits.

(3) **APPLICATION.—**To be eligible to receive a grant under this subsection, an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

(e) **DURATION.—**The Commissioner may award grants under subsection (c) or (d) for periods not to exceed 18 months.

**(f) REPORT TO CONGRESS.—**

(1) **PREPARATION.—**The Commissioner shall prepare a report that—

(A) summarizes the distribution of funds authorized for grants under this section and the expenditure of such funds;

(B) summarizes the scope and content of training and assistance provided under a program carried out under this section and the degree to which the training and assistance can be replicated;

(C) outlines the problems that individuals participating in programs funded under this section encountered concerning rights related to pension and other retirement benefits; and

(D) makes recommendations regarding the manner in which services provided in programs funded under this section can be incorporated into the ongoing programs of State agencies, area agencies on aging, multipurpose senior centers, and other similar entities.

(2) SUBMISSION.—Not later than 30 months after the date of the enactment of this section, the Commissioner shall submit the report described in paragraph (1) to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(g) ADMINISTRATIVE EXPENSES.—Of the funds appropriated under section 431(a)(1) to carry out this section for a fiscal year, not more than \$100,000 may be used by the Administration for administrative expenses in carrying out this section.

(42 U.S.C. 3035r)

## PART C—GENERAL PROVISIONS

### AUTHORIZATION OF APPROPRIATIONS

SEC. 431. (a)(1) There are authorized to be appropriated to carry out the provisions of this title (other than the provision specified in subsection (b)) \$72,000,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993, 1994, and 1995.

(2) Not less than 1 percent of the amount appropriated under paragraph (1) for each fiscal year shall be made available to carry out section 202(d).

(b) There are authorized to be appropriated to carry out section 411(e), \$450,000 for each of fiscal years 1992, 1993, 1994, and 1995.

(c) No funds appropriated under this title—

(1) may be transferred to any office or other authority of the Federal Government which is not directly responsible to the Commissioner;

(2) may be used for any program or activity which is not specifically authorized by this title; or

(3) may be combined with funds appropriated under any other Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this title are separately identified in such grant or payment and are used for the purposes of this title.

(42 U.S.C. 3037)

### PAYMENTS OF GRANTS

SEC. 432. (a) To the extent the Commissioner deems it appropriate, the Commissioner shall require the recipient of any grant or contract under this title to contribute money, facilities, or services for carrying out the project for which such grant or contract was made.

(b) Payments under this title pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in ad-

vance or by way of reimbursement, and in such installments and on such conditions, as the Commissioner may determine.

(c) The Commissioner shall make no grant or contract under this title in any State which has established or designated a State agency for purposes of title III unless the Commissioner—

(1) consults with the State agency prior to issuing the grant or contract; and

(2) informs the State agency of the purposes of the grant or contract when the grant or contract is issued.

(42 U.S.C. 3037a)

#### RESPONSIBILITIES OF COMMISSIONER

SEC. 433. (a) The Commissioner shall be responsible for the administration, implementation, and making of grants and contracts under this title and shall not delegate authority under this title to any other individual, agency, or organization.

(b)(1) Not later than January 1 following each fiscal year, the Commissioner shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report for such fiscal year that describes each project and each program—

(A) for which funds were provided under this title; and

(B) that was completed in the fiscal year for which such report is prepared.

(2) Such report shall contain—

(A) the name or descriptive title of each project or program;

(B) the name and address of the individual or governmental entity that conducted such project or program;

(C) a specification of the period throughout which such project or program was conducted;

(D) the identity of each source of funds expended to carry out such project or program and the amount of funds provided by each such source;

(E) an abstract describing the nature and operation of such project or program; and

(F) a bibliography identifying all published information relating to such project or program.

(c)(1) The Commissioner shall establish by regulation and implement a process to evaluate the results of projects and programs carried out under this title.

(2) The Commissioner shall—

(A) make available to the public each evaluation carried out under paragraph (1); and

(B) use such evaluation to improve services delivered, or the operation of projects and programs carried out, under this Act.

(42 U.S.C. 3037b)

**TITLE V—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS****SHORT TITLE**

**SEC. 501.** This title may be cited as the "Older American Community Service Employment Act".

(42 U.S.C. 3001 note)

**OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM**

**SEC. 502.** (a) In order to foster and promote useful part-time opportunities in community service activities for unemployed low-income persons who are fifty-five years old or older and who have poor employment prospects, the Secretary of Labor (hereinafter in this title referred to as the "Secretary") is authorized to establish an older American community service employment program.

(b)(1) In order to carry out the provisions of this title, the Secretary is authorized to enter into agreements with public or private nonprofit agencies or organizations, including national organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or tribal organizations in order to further the purposes and goals of the program. Such agreements may include provisions for the payment of costs, as provided in subsection (c), of projects developed by such organizations and agencies in cooperation with the Secretary in order to make the program effective or to supplement the program. No payment shall be made by the Secretary toward the cost of any project established or administered by any such organization or agency unless the Secretary determines that such project—

(A) will provide employment only for eligible individuals, except for necessary technical, administrative, and supervisory personnel, but such personnel shall, to the fullest extent possible, be recruited from among eligible individuals;

(B) will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities;

(C) will employ eligible individuals in services related to publicly owned and operated facilities and projects, or projects sponsored by organizations, other than political parties, exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986, except projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship;

(D) will contribute to the general welfare of the community;

(E) will provide employment for eligible individuals;

(F)(i) will result in an increase in employment opportunities over those opportunities which would otherwise be available; (ii) will not result in the displacement of currently employed workers (including partial displacement, such as a reduction in the hours of nonovertime work or wages or employment benefits); and (iii) will not impair existing contracts or re-

sult in the substitution of Federal funds for other funds in connection with work that would otherwise be performed;

(G) will not employ or continue to employ any eligible individual to perform work the same or substantially the same as that performed by any other person who is on layoff;

(H) will utilize methods of recruitment and selection (including listing of job vacancies with the employment agency operated by any State or political subdivision thereof) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project;

(I) will include such training as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and will provide for the payment of the reasonable expenses of individuals being trained, including a reasonable subsistence allowance;

(J) will assure that safe and healthy conditions of work will be provided, and will assure that individuals employed in community service jobs assisted under this title shall be paid wages which shall not be lower than whichever is the highest of (i) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the participant and if the participant were not exempt under section 13 thereof, (ii) the State or local minimum wage for the most nearly comparable covered employment, or (iii) the prevailing rates of pay for individuals employed in similar public occupations by the same employer;

(K) will be established or administered with the advice of persons competent in the field of service in which employment is being provided, and of persons who are knowledgeable with regard to the needs of older persons;

(L) will authorize pay for necessary transportation costs of eligible individuals which may be incurred in employment in any project funded under this title, in accordance with regulations promulgated by the Secretary;

(M) will assure, that to the extent feasible, such project will serve the needs of minority, limited English-speaking, and Indian eligible individuals, and eligible individuals who have greatest economic need, at least in proportion to their numbers in the State and take into consideration their rates of poverty and unemployment;

(N)(i) will prepare an assessment of—

(I) the participants' skills and talents;

(II) their need for supportive services; and

(III) their physical capabilities;

except to the extent such project has, for the particular participant involved, an assessment of such skills and talents, such need, or such capabilities prepared recently pursuant to another employment or training program (such as a program under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

(ii) will provide to eligible individuals training and employment counseling based on strategies that identify appropriate employment objectives and the need for supportive services, de-

veloped as a result of the assessment provided for in clause (i); and

(iii) will provide counseling to participants on their progress in meeting such objectives and satisfying their need for supportive services;

(O) will authorize funds to be used, to the extent feasible, to include individuals participating in such project under any State unemployment insurance plan; and

(P) will post in such project workplace a notice, and will make available to each person associated with such project a written explanation, clarifying the law with respect to allowable and unallowable political activities under chapter 15 of title 5, United States Code, applicable to the project and to each category of individuals associated with such project and containing the address and telephone number of the Inspector General of the Department of Labor, to whom questions regarding the application of such chapter may be addressed.

(2) The Secretary is authorized to establish, issue, and amend such regulations as may be necessary to effectively carry out the provisions of this title.

(3) The Secretary shall develop alternatives for innovative work modes and provide technical assistance in creating job opportunities through work sharing and other experimental methods to prime sponsors, labor organizations, groups representing business and industry and workers as well as to individual employers, where appropriate.

(4) The Secretary may enter into an agreement with the Administrator of the Environmental Protection Agency to establish a Senior Environmental Employment Corps.

(c)(1) The Secretary is authorized to pay not to exceed 90 percent of the cost of any project which is the subject of an agreement entered into under subsection (b), except that the Secretary is authorized to pay all of the costs of any such project which is (A) an emergency or disaster project, or (B) a project located in an economically depressed area, as determined by the Secretary in consultation with the Secretary of Commerce and the Secretary of Health and Human Services.

(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Secretary is authorized to attribute fair market value to services and facilities contributed from non-Federal sources.

(3) Of the amount for any project to be paid by the Secretary under this subsection, not more than 13.5 percent for fiscal year 1987 and each fiscal year thereafter shall be available for paying the costs of administration for such project, except that—

(A) whenever the Secretary determines that it is necessary to carry out the project assisted under this title, based on information submitted by the public or private nonprofit agency or organization with which the Secretary has an agreement under subsection (b), the Secretary may increase the amount available for paying the cost of administration to an amount not more than 15 percent of the cost of such project; and

(B) whenever the public or private nonprofit agency or organization with which the Secretary has an agreement under subsection (b) demonstrates to the Secretary that—

(i) major administrative cost increases are being incurred in necessary program components, including liability insurance, payments for workers' compensation, costs associated with achieving unsubsidized placement goals, and other operation requirements imposed by the Secretary;

(ii) the number of employment positions in the project or the number of minority eligible individuals participating in the project will decline if the amount available for paying the cost of administration is not increased; or

(iii) the size of the project is so small that the amount of administrative expenses incurred to carry out the project necessarily exceed 13.5 percent of the amount for such project;

the Secretary shall increase the amount available for the fiscal year for paying the cost of administration to an amount not more than 15 percent of the cost of such project.

(d)(1) Whenever a national organization or other program sponsor conducts a project within a planning and service area in a State such organization or program sponsor shall conduct such project in consultation with the area agency on aging of the planning and service area and shall submit to the State agency and the area agency on aging a description of such project to be conducted in the State, including the location of the project, 30 days prior to undertaking the project, for review and comment according to guidelines the Secretary shall issue to assure efficient and effective coordination of programs under this title.

(2) The Secretary shall review on his own initiative or at the request of any public or private nonprofit agency or organization, or an agency of the State government, the distribution of programs under this title within the State including the distribution between urban and rural areas within the State. For each proposed reallocation of programs within a State, the Secretary shall give notice and opportunity for a hearing on the record by all interested individuals and make a written determination of his findings and decision.

(e)(1) The Secretary, in addition to any other authority contained in this title, shall conduct experimental projects designed to assure second career training and the placement of eligible individuals in employment opportunities with private business concerns. The Secretary shall enter into such agreements with States, public agencies, nonprofit private organizations and private business concerns as may be necessary to conduct the experimental projects authorized by this subsection. The Secretary from amounts reserved under section 506(a)(2)(A) in any fiscal year, may pay all of the costs of any agreements entered into under the provisions of this subsection. The Secretary shall, to the extent feasible, assure equitable geographic distribution of projects authorized by this subsection.

(2) The Secretary shall issue, and amend from time to time, criteria designed to assure that agreements entered into under paragraph (1) of this subsection—

(A) will involve different kinds of work modes, such as flex-time, job sharing, and other arrangements relating to reduced physical exertion;

(B) will emphasize projects involving second careers and job placement and give consideration to placement in growth industries and in jobs reflecting new technological skills; and

(C)<sup>1</sup> require the coordination of projects carried out under such agreements, with the programs carried out under section 124 of the Job Training Partnership Act (29 U.S.C. 1534).

(3)(A) The Secretary shall carry out an evaluation of the second career training and job placement projects authorized by this subsection.

(B) The evaluation shall include but not be limited to the projects described in paragraph (2).

(C) The Secretary shall prepare and submit, not later than one year after the enactment of the Older Americans Act Amendments of 1981, to the Congress an interim report describing the agreements entered into under paragraph (1) and the design for the evaluation required by this paragraph. The Secretary shall prepare and submit to the President and the Congress a final report on the evaluation required by this paragraph. The Secretary shall prepare and submit to the President and the Congress a final report on the evaluation required by this paragraph not later than February 1, 1984, together with his findings and such recommendations, including recommendations for additional legislation, as the Secretary deems appropriate.

(D) The Secretary shall make the final report submitted under subparagraph (C) available to interested private business concerns.

(4) For the purpose of this subsection, "eligible individual" means any individual who is 55 years of age or older and who has an income equal to or less than the intermediate level retired couples budget as determined annually by the Bureau of Labor Statistics.

(42 U.S.C. 3056)

#### ADMINISTRATION

SEC. 503. (a)(1) In order to effectively carry out the provisions of this title, the Secretary shall, through the Commissioner, consult with the State agency and the appropriate area agencies on aging established under section 305(a)(2) with regard to—

(A) the localities in which community service projects of the type authorized by this title are most needed;

(B) consideration of the employment situations and the type of skills possessed by available local individuals who are eligible to participate; and

(C) potential projects and the number and percentage of eligible individuals in the local population.

<sup>1</sup> Margin is incorrect.

(2) The Secretary of Labor and the Commissioner shall coordinate the programs under this title and the programs under titles III, IV, and VI to increase job opportunities available to older individuals.

(b)(1) The Secretary shall coordinate the program assisted under this title with programs authorized under the Job Training Partnership Act, the Community Services Block Grant Act, and the Vocational Education Act of 1984. The Secretary shall coordinate the administration of this title with the administration of titles III, IV, and VI by the Commissioner, to increase the likelihood that eligible individuals for whom employment opportunities under this title are available and who need services under such titles receive such services. Appropriations under this Act may not be used to carry out any program under the Job Training Partnership Act, the Community Services Block Grant Act, or the Vocational Education Act of 1984. The preceding sentence shall not be construed to prohibit carrying out projects under this title jointly with programs, projects, or activities under any Act specified in such sentence.

(2) The Secretary shall distribute to grantees under this title, for distribution to program enrollees, and at no cost to grantees or enrollees, information materials developed and supplied by the Equal Employment Opportunity Commission and other appropriate Federal agencies which the Secretary determines are designed to help enrollees identify age discrimination and understand their rights under the Age Discrimination in Employment Act of 1967.

(c) In carrying out the provisions of this title, the Secretary is authorized to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement, and on a similar basis to cooperate with other public and private agencies and instrumentalities in the use of services, equipment, and facilities.

(d) Payments under this title may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

(e) The Secretary shall not delegate any function of the Secretary under this title to any other department or agency of the Federal Government.

(f) In carrying out the provisions of this title, the Secretary may fund and expand projects concerning the Senior Environmental Employment Corps and energy conservation from sums appropriated under section 508 for such fiscal year.

(42 U.S.C. 3056a)

#### PARTICIPANTS NOT FEDERAL EMPLOYEES

SEC. 504. (a) Eligible individuals who are employed in any project funded under this title shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5, United States Code.

(b) No contract shall be entered into under this title with a contractor who is, or whose employees are, under State law, exempted from operation of the State workmen's compensation law, generally applicable to employees, unless the contractor shall undertake to provide either through insurance by a recognized car-

rier, or by self-insurance, as authorized by State law, that the persons employed under the contract shall enjoy workmen's compensation coverage equal to that provided by law for covered employment.

(42 U.S.C. 3056b)

#### INTERAGENCY COOPERATION

SEC. 505. (a) The Secretary shall consult with, and obtain the written views of, the Commissioner prior to the establishment of rules or the establishment of general policy in the administration of this title.

(b) The Secretary shall consult and cooperate with the Director of the Office of Community Services, the Secretary of Health and Human Services, and the heads of other Federal agencies carrying out related programs, in order to achieve optimal coordination with such other programs. In carrying out the provisions of this section, the Secretary shall promote programs or projects of a similar nature. Each Federal agency shall cooperate with the Secretary in disseminating information relating to the availability of assistance under this title and in promoting the identification and interests of individuals eligible for employment in projects assisted under this title.

(c) In administering projects under this title concerning the Senior Environmental Employment Corps and energy conservation, the Secretary shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Energy and shall enter into an agreement with the Administrator and the Secretary of Energy to coordinate programs conducted by them with such projects.

(d)(1) The Secretary shall promote and coordinate carrying out projects under this title jointly with programs, projects, or activities under other Acts that provide training and employment opportunities to eligible individuals.

(2) The Secretary shall consult with the Secretary of Education to promote and coordinate carrying out projects under this title jointly with employment and training programs in which eligible individuals may participate that are carried out under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(42 U.S.C. 3056c)

#### EQUITABLE DISTRIBUTION OF ASSISTANCE

SEC. 506. (a)(1)(A) Subject to subparagraph (B) and paragraph (2), from sums appropriated under this title for each fiscal year, the Secretary shall first reserve such sums as may be necessary for national grants or contracts with public agencies and public or non-profit private organizations to maintain the level of activities carried on under such grants or contracts at least at the level of such activities supported under this title and under any other provision of Federal law relating to community service employment programs for older Americans in fiscal year 1978.

(B)(i)(I) For each fiscal year in which the sums appropriated under this title exceed the amount appropriated under this title for fiscal year 1978, the Secretary shall reserve not more than 45 percent of such excess, except as provided in subclause (II), to carry out clauses (ii), (iii), and (v).

(II) The Secretary shall reserve a sum sufficient to carry out clauses (iii) and (v).

(III) The Secretary in awarding grants and contracts under this paragraph from the sum reserved under this paragraph shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts designed to achieve the allotment among the States described in paragraph (3) of this subsection.

(ii) The Secretary shall reserve such sums as may be necessary for national grants or contracts with public or nonprofit national Indian aging organizations with the ability to provide employment services to older Indians and with national public or nonprofit Pacific Island and Asian American aging organizations with the ability to provide employment services to older Pacific Island and Asian Americans.

(iii) If the amount appropriated under this title for a fiscal year exceeds 102 percent of the amount appropriated under this title for fiscal year 1991, for each fiscal year described in clause (iv), the Secretary shall reserve for recipients of national grants and contracts under this paragraph such portion of the excess amount as the Secretary determines to be appropriate and is—

(I) at least 25 percent of the excess amount; or

(II) the portion required to increase the amount made available under this paragraph to each of the recipients so that the amount equals 1.3 percent of the amount appropriated under this title for fiscal year 1991.

(iv) From the portion reserved under clause (iii), the Secretary shall increase the amount made available under this paragraph to each of the recipients—

(I) for each fiscal year before the fiscal year described in subclause (II), so that such amount equals, or more closely approaches, such 1.3 percent; and

(II) for the first fiscal year for which the portion is sufficient to make available under this paragraph to each of the recipients the amount equal to such 1.3 percent, so that such amount is not less than such 1.3 percent.

(v) For each fiscal year after the fiscal year described in clause (iv)(II), the Secretary shall make available under this paragraph to each of the recipients an amount not less than such 1.3 percent.

(C) Preference in awarding grants and contracts under this paragraph shall be given to national organizations, and agencies, of proven ability in providing employment services to eligible individuals under this program and similar programs. The Secretary, in awarding grants and contracts under this section, shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts, in the aggregate, among the States, taking into account the needs of underserved States, subject to subparagraph (B)(i)(III).

(2)(A) From sums appropriated under this title for each fiscal year after September 30, 1978, the Secretary shall reserve an

amount which is at least 1 percent and not more than 3 percent of the amount appropriated in excess of the amount appropriated for fiscal year 1978 for the purpose of entering into agreements under section 502(e), relating to improved transition to private employment.

(B) After the Secretary makes the reservations required by paragraph (1)(B) and subparagraph (A), the remainder of such excess shall be allotted to the appropriate public agency of each State pursuant to paragraph (3).

(3) The Secretary shall allot to the State agency on aging of each State the remainder of the sums appropriated for any fiscal year under section 508 so that each State will receive an amount which bears the same ratio to such remainder as the product of the number of persons aged fifty-five or over in the State and the allotment percentage of such State bears to the sum of the corresponding product for all States, except that (A) no State shall be allotted less than one-half of 1 percent of the remainder of the sums appropriated for the fiscal year for which the determination is made, or \$100,000, whichever is greater, and (B) Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted an amount which is not less than one-fourth of 1 percent of the remainder of the sums appropriated for the fiscal year for which the determination is made, or \$50,000, whichever is greater. For the purpose of the exception contained in this paragraph the term "State" does not include Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, and the Trust Territory of the Pacific Islands.

(4) For the purpose of this subsection—

(A) the allotment percentage of each State shall be 100 percent less that percentage which bears the same ratio to 50 percent as the per capita income of such State bears to the per capita income of the United States, except that (i) the allotment percentage shall in no case be more than 75 percent or less than 33 $\frac{1}{3}$  percent, and (ii) the allotment percentage for the District of Columbia, the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall be 75 percent;

(B) the number of persons aged fifty-five or over in any State and in all States, and the per capita income in any State and in all States, shall be determined by the Secretary on the basis of the most satisfactory data available to the Secretary; and

(C) for the purpose of determining the allotment percentage, the term "United States" means the fifty States and the District of Columbia.

(b) The amount allotted for projects within any State under subsection (a) for any fiscal year which the Secretary determines will not be required for such year shall be reallocated, from time to time and on such dates during such year as the Secretary may fix, to projects within other States in proportion to the original allotments to projects within such States under subsection (a) for such

year, but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Secretary estimates that projects within such State need and will be able to use for such year; and the total of such reductions shall be similarly reallocated among the States whose proportionate amounts were not so reduced. Any amount reallocated to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

(c) The amount apportioned for projects within each State under subsection (a) shall be apportioned among areas within each such State in an equitable manner, taking into consideration (1) the proportion which eligible individuals in each such area bears to the total number of such individuals, respectively, in that State, (2) the relative distribution of such individuals residing in rural and urban areas within the State, and (3) the relative distribution of (A) such individuals who are individuals with greatest economic need, (B) such individuals who are minority individuals, and (C) such individuals who are individuals with greatest social need.

(d) The Secretary shall require the State agency for each State receiving funds under this title to report at the beginning of each fiscal year on such State's compliance with subsection (c). Such report shall include the names and geographic location of all projects assisted under this title and carried out in the State and the amount allotted to each such project.

(42 U.S.C. 3056d)

#### DEFINITIONS

SEC. 507. As used in this title—

(1) the term "eligible individual" means an individual who is fifty-five years old or older, who has a low income (including any such individual whose income is not more than 125 percent of the poverty line), except that, pursuant to regulations prescribed by the Secretary, any such individual who is sixty years old or older shall have priority for the work opportunities provided for under this title;

(2) the term "community service" means social, health, welfare, and educational services (particularly literacy tutoring), legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services; conservation, maintenance, or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; weatherization activities; economic development; and such other services essential and necessary to the community as the Secretary, by regulation, may prescribe;

(3) the term "program" means the older American community service employment program established under this title; and

(4) the term "Pacific Island and Asian Americans" means Americans having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands.

(42 U.S.C. 3056e)

## AUTHORIZATION OF APPROPRIATIONS

SEC. 508. (a) There is authorized to be appropriated to carry out this title—

(1) \$470,671,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993, 1994, and 1995; and

(2) such additional sums as may be necessary for each such fiscal year to enable the Secretary, through programs under this title, to provide for at least 70,000 part-time employment positions for eligible individuals.

For purposes of paragraph (2), "part-time employment position" means an employment position within a workweek of at least 20 hours.

(b) Amounts appropriated under this section for any fiscal year shall be used during the annual period which begins on July 1 of the calendar year immediately following the beginning of such fiscal year and which ends on June 30 of the following calendar year. The Secretary may extend the period during which such amounts may be obligated or expended in the case of a particular organization or agency receiving funds under this title if the Secretary determines that such extension is necessary to ensure the effective use of such funds by such organization or agency. Any such extension shall be for a period of not more than 60 days after the end of such annual period.

(42 U.S.C. 3056f)

## EMPLOYMENT ASSISTANCE AND FEDERAL HOUSING AND FOOD STAMP PROGRAMS

SEC. 509. Funds received by eligible individuals from projects carried out under the program established in this title shall not be considered to be income of such individuals for purposes of determining the eligibility of such individuals, or of any other persons, to participate in any housing program for which Federal funds may be available or for any income determination under the Food Stamp Act of 1977.

(42 U.S.C. 3056g)

## SEC. 510. DUAL ELIGIBILITY.

In the case of projects under this title carried out jointly with programs carried out under the Job Training Partnership Act, eligible individuals shall be deemed to satisfy the requirements of section 203 of such Act (29 U.S.C. 1603) that are applicable to adults.

(42 U.S.C. 3056h)

## SEC. 511. TREATMENT OF ASSISTANCE.

Assistance furnished under this title shall not be construed to be financial assistance described in section 245A(h)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(1)(A)).

(42 U.S.C. 3056i)

## TITLE VI—GRANTS FOR NATIVE AMERICANS

## STATEMENT OF PURPOSE

SEC. 601. It is the purpose of this title to promote the delivery of supportive services, including nutrition services to American Indians, Alaskan Natives, and Native Hawaiians that are comparable to services provided under title III.

(42 U.S.C. 3057)

## SENSE OF CONGRESS

SEC. 602. It is the sense of the Congress that older individuals who are Indians, older individuals who are Alaskan Natives, and older individuals who are Native Hawaiians are a vital resource entitled to all benefits and services available and that such services and benefits should be provided in a manner that preserves and restores their respective dignity, self-respect, and cultural identities.

(42 U.S.C. 3057a)

## PART A—INDIAN PROGRAM

## FINDINGS

SEC. 611. (a)<sup>1</sup> The Congress finds that the older individuals who are Indians of the United States—

- (1) are a rapidly increasing population;
- (2) suffer from high unemployment;
- (3) live in poverty at a rate estimated to be as high as 61 percent;
- (4) have a life expectancy between 3 and 4 years less than the general population;
- (5) lack sufficient nursing homes, other long-term care facilities, and other health care facilities;
- (6) lack sufficient Indian area agencies on aging;
- (7) frequently live in substandard and over-crowded housing;
- (8) receive less than adequate health care;
- (9) are served under this title at a rate of less than 19 percent of the total national population of older individuals who are Indians living on Indian reservations; and
- (10) are served under title III at a rate of less than 1 percent of the total participants under that title.

(42 U.S.C. 3057b)

## ELIGIBILITY

SEC. 612. (a) A tribal organization of an Indian tribe is eligible for assistance under this part only if—

(1) the tribal organization represents at least 50 individuals who are 60 years of age or older; and

(2) the tribal organization demonstrates the ability to deliver supportive services, including nutritional services.

(b) For the purposes of this part the terms "Indian tribe" and "tribal organization" have the same meaning as in section 4 of the

<sup>1</sup> Error in amendment made by section 171 of Public Law 100-175. Should strike "(a)".

**Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).**

(42 U.S.C. 3057c)

**GRANTS AUTHORIZED**

**SEC. 613.** The Commissioner may make grants to eligible tribal organizations to pay all of the costs for delivery of supportive services and nutrition services for older individuals who are Indians.

(42 U.S.C. 3057d)

**APPLICATIONS**

**SEC. 614.** (a) No grant may be made under this part unless the eligible tribal organization submits an application to the Commissioner which meets such criteria as the Commissioner may by regulation prescribe. Each such application shall—

(1) provide that the eligible tribal organization will evaluate the need for supportive and nutrition services among older individuals who are Indians to be represented by the tribal organizations;

(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

(3) provide that the tribal organization will make such reports in such form and containing such information, as the Commissioner may reasonably require, and comply with such requirements as the Commissioner may impose to assure the correctness of such reports;

(4) provide for periodic evaluation of activities and projects carried out under the application;

(5) establish objectives consistent with the purposes of this part toward which activities under the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the tribal organization proposes to overcome such obstacles;

(6) provide for establishing and maintaining information and assistance services to assure that older individuals who are Indians to be served by the assistance made available under this part will have reasonably convenient access to such services;

(7) provide a preference for older individuals who are Indians for full or part-time staff positions whenever feasible;

(8) provide assistance that either directly or by way of grant or contract with appropriate entities nutrition services will be delivered to older individuals who are Indians represented by the tribal organization substantially in compliance with the provisions of part C of title III, except that in any case in which the need for nutritional services for older individuals who are Indians represented by the tribal organization is already met from other sources, the tribal organization may use the funds otherwise required to be expended under this paragraph for supportive services;

(9) contain assurance that the provisions of sections 307(a)(14)(A) (i) and (iii), 307(a)(14)(B), and 307(a)(14)(C) will

be complied with whenever the application contains provisions for the acquisition, alteration, or renovation of facilities to serve as multipurpose senior centers;

(10) provide that any legal or ombudsman services made available to older individuals who are Indians represented by the tribal organization will be substantially in compliance with the provisions of title III relating to the furnishing of similar services;

(11) provide satisfactory assurance that fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the tribal organization, including any funds paid by the tribal organization to a recipient of a grant or contract; and

(12) contain assurances that the tribal organization will coordinate services provided under this part with services provided under title III in the same geographical area.

(b) For the purpose of any application submitted under this part, the tribal organization may develop its own population statistics, with certification from the Bureau of Indian Affairs, in order to establish eligibility.

(c) The Commission<sup>1</sup> shall approve any application which complies with the provisions of subsection (a).

(d) Whenever the Commissioner determines not to approve an application submitted under subsection (a) the Commission<sup>1</sup> shall—

(1) state objections in writing to the tribal organization within 60 days after such decision;

(2) provide to the extent practicable technical assistance to the tribal organization to overcome such stated objections; and

(3) provide the tribal organization with a hearing, under such rules and regulations as the Commissioner may prescribe.

(e) Whenever the Commissioner approves an application of a tribal organization under this part, funds shall be awarded for not less than 12 months.

(42 U.S.C. 3057e)

#### SEC. 614A. DISTRIBUTION OF FUNDS AMONG TRIBAL ORGANIZATIONS.

(a) MAINTENANCE OF 1991 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of the grant (if any) made under this part to a tribal organization for fiscal year 1992 and for each subsequent fiscal year shall be not less than the amount of the grant made under this part to the tribal organization for fiscal year 1991.

(b) USE OF ADDITIONAL AMOUNTS APPROPRIATED.—If the funds appropriated to carry out this part in a fiscal year subsequent to fiscal year 1991 exceed the funds appropriated to carry out this part in fiscal year 1991, then the amount of the grant (if any) made under this part to a tribal organization for the subsequent fiscal year shall be—

<sup>1</sup> Error in amendment made by section 171 of Public Law 100-175, 101 Stat. 961. Should be "Commissioner".

(1) increased by such amount as the Commissioner considers to be appropriate, in addition to the amount of any increase required by subsection (a), so that the grant equals or more closely approaches the amount of the grant made under this part to the tribal organization for fiscal year 1980; or

(2) an amount the Commissioner considers to be sufficient if the tribal organization did not receive a grant under this part for either fiscal year 1980 or fiscal year 1991.

(42 U.S.C. 3057e-1)

#### SURPLUS EDUCATIONAL FACILITIES

SEC. 615. (a) Notwithstanding any other provision of law, the Secretary of the Interior through the Bureau of Indian Affairs shall make available surplus Indian educational facilities to tribal organizations, and nonprofit organizations with tribal approval, for use as multipurpose senior centers. Such centers may be altered so as to provide extended care facilities, community center facilities, nutrition services, child care services, and other supportive services.

(b) Each eligible tribal organization desiring to take advantage of such surplus facilities shall submit an application to the Secretary of the Interior at such time and such manner, and containing or accompanied by such information, as the Secretary of the Interior determines to be necessary to carry out the provisions of this section.

(42 U.S.C. 3057f)

#### PART B—NATIVE HAWAIIAN PROGRAM

##### FINDINGS

SEC. 621. The Congress finds the older Native Hawaiians—

(1) have a life expectancy 10 years less than any other ethnic group in the State of Hawaii;

(2) rank lowest on 9 of 11 standard health indicies for all ethnic groups in Hawaii;

(3) are often unaware of social services and do not know how to go about seeking such assistance; and

(4) live in poverty at a rate of 34 percent.

(42 U.S.C. 3057g)

##### ELIGIBILITY

SEC. 622. A public or nonprofit private organization having the capacity to provide services under this part for Native Hawaiians is eligible for assistance under this part only if—

(1) the organization will serve at least 50 individuals who have attained 60 years of age or older; and

(2) the organization demonstrates the ability to deliver supportive services, including nutrition services.

(42 U.S.C. 3057h)

##### GRANTS AUTHORIZED

SEC. 623. The Commissioner may make grants to public and nonprofit private organizations to pay all of the costs for the deliv-

ery of supportive services and nutrition services to older Native Hawaiians.

(42 U.S.C. 3057i)

#### APPLICATION

SEC. 624. (a) No grant may be made under this part unless the public or nonprofit private organization submits an application to the Commissioner which meets such criteria as the Commissioner may by regulation prescribe. Each such application shall—

(1) provide that the organization will evaluate the need for supportive and nutrition services among older Native Hawaiians to be represented by the organization;

(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

(3) provide assurances that the organization will coordinate its activities with the State agency on aging and with the activities carried out under title III in the same geographical area;

(4) provide that the organization will make such reports in such form and containing such information as the Commissioner may reasonably require, and comply with such requirements as the Commissioner may impose to ensure the correctness of such reports;

(5) provide for periodic evaluation of activities and projects carried out under the application;

(6) establish objectives, consistent with the purpose of this title, toward which activities described in the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the organization proposes to overcome such obstacles;

(7) provide for establishing and maintaining information and assistance services to assure that older Native Hawaiians to be served by the assistance made available under this part will have reasonably convenient access to such services;

(8) provide a preference for Native Hawaiians 60 years of age and older for full or part-time staff positions wherever feasible;

(9) provide that any legal or ombudsman services made available to older Native Hawaiians represented by the nonprofit private organization will be substantially in compliance with the provisions of title III relating to the furnishing and similar services; and

(10) provide satisfactory assurance that the fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the nonprofit private organization, including any funds paid by the organization to a recipient of a grant or contract.

(b) The Commissioner shall approve any application which complies with the provisions of subsection (a).

(c) Whenever the Commissioner determines not to approve an application submitted under subsection (a) the Commissioner shall—

(1) state objections in writing to the nonprofit private organization within 60 days after such decision;

(2) provide to the extent practicable technical assistance to the nonprofit private organization to overcome such stated objections; and

(3) provide the organization with a hearing under such rules and regulations as the Commissioner may prescribe.

(d) Whenever the Commissioner approves an application of a nonprofit private or public organization under this part funds shall be awarded for not less than 12 months.

(42 U.S.C. 3057j)

#### SEC. 624A. DISTRIBUTION OF FUNDS AMONG ORGANIZATIONS.

Subject to the availability of appropriations to carry out this part, the amount of the grant (if any) made under this part to an organization for fiscal year 1992 and for each subsequent fiscal year shall be not less than the amount of the grant made under this part to the organization for fiscal year 1991.

(42 U.S.C. 3057j-1)

#### DEFINITION

SEC. 625. For the purpose of this part, the term "Native Hawaiian" means any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778.

(42 U.S.C. 3057k)

### PART C—GENERAL PROVISIONS

#### ADMINISTRATION

SEC. 631. In establishing regulations for the purpose of part A the Commissioner shall consult with the Secretary of the Interior.

(42 U.S.C. 3057l)

#### PAYMENTS

SEC. 632. Payments may be made under this title (after necessary adjustments, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement in such installments and on such conditions as the Commissioner may determine.

(42 U.S.C. 3057m)

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 633. (a) There are authorized to be appropriated \$30,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995, to carry out this title (other than section 615).

(b) Of the amount appropriated under subsection (a) for each fiscal year—

(1) 90 percent shall be available to carry out part A; and

(2) 10 percent shall be available to carry out part B.

(42 U.S.C. 3057n)

# TITLE VII—ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES

## Subtitle A—State Provisions

### CHAPTER 1—GENERAL STATE PROVISIONS

#### SEC. 701. ESTABLISHMENT.

The Commissioner, acting through the Administration, shall establish and carry out a program for making allotments to States to pay for the cost of carrying out vulnerable elder rights protection activities.

(42 U.S.C. 3058)

#### SEC. 702. AUTHORIZATION OF APPROPRIATIONS.

(a) OMBUDSMAN PROGRAM.—There are authorized to be appropriated to carry out chapter 2, \$40,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995.

(b) PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION.—There are authorized to be appropriated to carry out chapter 3, \$15,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995.

(c) STATE ELDER RIGHTS AND LEGAL ASSISTANCE DEVELOPMENT PROGRAM.—There are authorized to be appropriated to carry out chapter 4, \$10,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995.

(d) OUTREACH, COUNSELING, AND ASSISTANCE PROGRAM.—There are authorized to be appropriated to carry out chapter 5, \$15,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995.

(42 U.S.C. 3058a)

#### SEC. 703. ALLOTMENT.

##### (a) IN GENERAL.—

(1) POPULATION.—In carrying out the program described in section 701, the Commissioner shall initially allot to each State, from the funds appropriated under section 702 for each fiscal year, an amount that bears the same ratio to the funds as the population of older individuals in the State bears to the population of older individuals in all States.

##### (2) MINIMUM ALLOTMENTS.—

(A) IN GENERAL.—After making the initial allotments described in paragraph (1), the Commissioner shall adjust the allotments on a pro rata basis in accordance with subparagraphs (B) and (C).

##### (B) GENERAL MINIMUM ALLOTMENTS.—

(i) MINIMUM ALLOTMENT FOR STATES.—No State shall be allotted less than one-half of 1 percent of the funds appropriated under section 702 for the fiscal year for which the determination is made.

(ii) **MINIMUM ALLOTMENT FOR TERRITORIES.**—Guam, the United States Virgin Islands, and the Trust Territory of the Pacific Islands, shall each be allotted not less than one-fourth of 1 percent of the funds appropriated under section 702 for the fiscal year for which the determination is made. American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than one-sixteenth of 1 percent of the sum appropriated under section 702 for the fiscal year for which the determination is made.

(C) **MINIMUM ALLOTMENTS FOR OMBUDSMAN AND ELDER ABUSE PROGRAMS.**—

(i) **OMBUDSMAN PROGRAM.**—No State shall be allotted for a fiscal year, from the funds appropriated under section 702(a), less than the amount allotted to the State under section 304 in fiscal year 1991 to carry out the State Long-Term Care Ombudsman program under title III.

(ii) **ELDER ABUSE PROGRAMS.**—No State shall be allotted for a fiscal year, from the funds appropriated under section 702(b), less than the amount allotted to the State under section 304 in fiscal year 1991 to carry out programs with respect to the prevention of elder abuse, neglect, and exploitation under title III.

(D) **DEFINITION.**—For the purposes of this paragraph, the term “State” does not include Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(b) **REALLOTMENT.**—

(1) **IN GENERAL.**—If the Commissioner determines that any amount allotted to a State for a fiscal year under this section will not be used by the State for carrying out the purpose for which the allotment was made, the Commissioner shall make the amount available to a State that the Commissioner determines will be able to use the amount for carrying out the purpose.

(2) **AVAILABILITY.**—Any amount made available to a State from an appropriation for a fiscal year in accordance with paragraph (1) shall, for purposes of this subtitle, be regarded as part of the allotment of the State (as determined under subsection (a)) for the year, but shall remain available until the end of the succeeding fiscal year.

(c) **WITHHOLDING.**—If the Commissioner finds that any State has failed to carry out this title in accordance with the assurances made and description provided under section 705, the Commissioner shall withhold the allotment of funds to the State. The Commissioner shall disburse the funds withheld directly to any public or nonprofit private institution or organization, agency, or political subdivision of the State submitting an approved plan containing the assurances and description.

**SEC. 704. ORGANIZATION.**

In order for a State to be eligible to receive allotments under this subtitle—

(1) the State shall demonstrate eligibility under section 305;

(2) the State agency designated by the State shall demonstrate compliance with the applicable requirements of section 305; and

(3) each area agency on aging designated by the State agency and participating in such a program shall demonstrate compliance with the applicable requirements of section 305.

(42 U.S.C. 3058c)

**SEC. 705. ADDITIONAL STATE PLAN REQUIREMENTS.**

(a) **ELIGIBILITY.**—In order to be eligible to receive an allotment under this subtitle, a State shall include in the State plan submitted under section 307—

(1) an assurance that the State, in carrying out any chapter of this subtitle for which the State receives funding under this subtitle, will establish programs in accordance with the requirements of the chapter and this chapter;

(2) an assurance that the State will hold public hearings, and use other means, to obtain the views of older individuals, area agencies on aging, recipients of grants under title VI, and other interested persons and entities regarding programs carried out under this subtitle;

(3) an assurance that the State, in consultation with area agencies on aging, will identify and prioritize statewide activities aimed at ensuring that older individuals have access to, and assistance in securing and maintaining, benefits and rights;

(4) an assurance that the State will use funds made available under this subtitle for a chapter in addition to, and will not supplant, any funds that are expended under any Federal or State law in existence on the day before the date of the enactment of this subtitle, to carry out the vulnerable elder rights protection activities described in the chapter;

(5) an assurance that the State will place no restrictions, other than the requirements referred to in clauses (i) through (iv) of section 712(a)(5)(C), on the eligibility of entities for designation as local Ombudsman entities under section 712(a)(5);

(6) an assurance that, with respect to programs for the prevention of elder abuse, neglect, and exploitation under chapter 3—

(A) in carrying out such programs the State agency will conduct a program of services consistent with relevant State law and coordinated with existing State adult protective service activities for—

(i) public education to identify and prevent elder abuse;

(ii) receipt of reports of elder abuse;

(iii) active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to

other social service agencies or sources of assistance if appropriate and if the individuals to be referred consent; and

(iv) referral of complaints to law enforcement or public protective service agencies if appropriate;

(B) the State will not permit involuntary or coerced participation in the program of services described in subparagraph (A) by alleged victims, abusers, or their households; and

(C) all information gathered in the course of receiving reports and making referrals shall remain confidential except—

(i) if all parties to such complaint consent in writing to the release of such information;

(ii) if the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system; or

(iii) upon court order;

(7) an assurance that the State agency—

(A) from funds appropriated under section 702(d) for chapter 5, will make funds available to eligible area agencies on aging to carry out chapter 5 and, in distributing such funds among eligible area agencies, will give priority to area agencies on aging based on—

(i) the number of older individuals with greatest economic need, and older individuals with greatest social need, residing in their respective planning and service areas; and

(ii) the inadequacy in such areas of outreach activities and application assistance of the type specified in chapter 5;

(B) will require, as a condition of eligibility to receive funds to carry out chapter 5, an area agency on aging to submit an application that—

(i) describes the activities for which such funds are sought;

(ii) provides for an evaluation of such activities by the area agency on aging; and

(iii) includes assurances that the area agency on aging will prepare and submit to the State agency a report of the activities conducted with funds provided under this paragraph and the evaluation of such activities;

(C) will distribute to area agencies on aging—

(i) the eligibility information received under section 202(a)(20) from the Administration; and

(ii) information, in written form, explaining the requirements for eligibility to receive medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

(D) will submit to the Commissioner a report on the evaluations required to be submitted under subparagraph (B); and

(8) a description of the manner in which the State agency will carry out this title in accordance with the assurances described in paragraphs (1) through (7).

(b) PRIVILEGE.—Neither a State, nor a State agency, may require any provider of legal assistance under this subtitle to reveal any information that is protected by the attorney-client privilege.

(42 U.S.C. 3058d)

#### SEC. 706. DEMONSTRATION PROJECTS.

(a) ESTABLISHMENT.—From amounts made available under section 304(d)(1)(C) after September 30, 1992, each State may provide for the establishment of at least one demonstration project, to be conducted by one or more area agencies on aging within the State, for outreach to older individuals with greatest economic need with respect to—

(1) benefits available under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) (or assistance under a State program established in accordance with such title);

(2) medical assistance available under title XIX of such Act (42 U.S.C. 1396 et seq.); and

(3) benefits available under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

(b) BENEFITS.—Each outreach project carried out under subsection (a) shall—

(1) provide to older individuals with greatest economic need information and assistance regarding their eligibility to receive the benefits and assistance described in paragraphs (1) through (3) of subsection (a);

(2) be carried out in a planning and service area that has a high proportion of older individuals with greatest economic need, relative to the aggregate number of older individuals in such area; and

(3) be coordinated with State and local entities that administer benefits under such titles.

(42 U.S.C. 3058e)

## CHAPTER 2—OMBUDSMAN PROGRAMS

#### SEC. 711. DEFINITIONS.

As used in this chapter:

(1) OFFICE.—The term “Office” means the office established in section 712(a)(1)(A).

(2) OMBUDSMAN.—The term “Ombudsman” means the individual described in section 712(a)(2).

(3) LOCAL OMBUDSMAN ENTITY.—The term “local Ombudsman entity” means an entity designated under section 712(a)(5)(A) to carry out the duties described in section 712(a)(5)(B) with respect to a planning and service area or other substate area.

(4) PROGRAM.—The term “program” means the State Long-Term Care Ombudsman program established in section 712(a)(1)(B).

(5) REPRESENTATIVE.—The term “representative” includes an employee or volunteer who represents an entity designated

under section 712(a)(5)(A) and who is individually designated by the Ombudsman.

(6) RESIDENT.—The term “resident” means an older individual who resides in a long-term care facility.

(42 U.S.C. 3058f)

**SEC. 712. STATE LONG-TERM CARE OMBUDSMAN PROGRAM.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—In order to be eligible to receive an allotment under section 703 from funds appropriated under section 702(a), a State agency shall, in accordance with this section—

(A) establish and operate an Office of the State Long-Term Care Ombudsman; and

(B) carry out through the Office a State Long-Term Care Ombudsman program.

(2) OMBUDSMAN.—The Office shall be headed by an individual, to be known as the State Long-Term Care Ombudsman, who shall be selected from among individuals with expertise and experience in the fields of long-term care and advocacy.

(3) FUNCTIONS.—The Ombudsman shall serve on a full-time basis, and shall, personally or through representatives of the Office—

(A) identify, investigate, and resolve complaints that—

(i) are made by, or on behalf of, residents; and

(ii) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), of—

(I) providers, or representatives of providers, of long-term care services;

(II) public agencies; or

(III) health and social service agencies;

(B) provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;

(C) inform the residents about means of obtaining services provided by providers or agencies described in subparagraph (A)(ii) or services described in subparagraph (B);

(D) ensure that the residents have regular and timely access to the services provided through the Office and that the residents and complainants receive timely responses from representatives of the Office to complaints;

(E) represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(F) provide administrative and technical assistance to entities designated under paragraph (5) to assist the entities in participating in the program;

(G)(i) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions,

that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in the State;

(ii) recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate; and

(iii) facilitate public comment on the laws, regulations, policies, and actions;

(H)(i) provide for training representatives of the Office;

(ii) promote the development of citizen organizations, to participate in the program; and

(iii) provide technical support for the development of resident and family councils to protect the well-being and rights of residents; and

(I) carry out such other activities as the Commissioner determines to be appropriate.

(4) CONTRACTS AND ARRANGEMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the State agency may establish and operate the Office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

(B) LICENSING AND CERTIFICATION ORGANIZATIONS; ASSOCIATIONS.—The State agency may not enter into the contract or other arrangement described in subparagraph (A) with—

(i) an agency or organization that is responsible for licensing or certifying long-term care services in the State; or

(ii) an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals.

(5) DESIGNATION OF LOCAL OMBUDSMAN ENTITIES AND REPRESENTATIVES.—

(A) DESIGNATION.—In carrying out the duties of the Office, the Ombudsman may designate an entity as a local Ombudsman entity, and may designate an employee or volunteer to represent the entity.

(B) DUTIES.—An individual so designated shall, in accordance with the policies and procedures established by the Office and the State agency—

(i) provide services to protect the health, safety, welfare and rights of residents;

(ii) ensure that residents in the service area of the entity have regular, timely access to representatives of the program and timely responses to complaints and requests for assistance;

(iii) identify, investigate, and resolve complaints made by or on behalf of residents that relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents;

(iv) represent the interests of residents before government agencies and seek administrative, legal, and

other remedies to protect the health, safety, welfare, and rights of the residents;

(v)(I) review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents; and

(II) facilitate the ability of the public to comment on the laws, regulations, policies, and actions;

(vi) support the development of resident and family councils; and

(vii) carry out other activities that the Ombudsman determines to be appropriate.

(C) ELIGIBILITY FOR DESIGNATION.—Entities eligible to be designated as local Ombudsman entities, and individuals eligible to be designated as representatives of such entities, shall—

(i) have demonstrated capability to carry out the responsibilities of the Office;

(ii) be free of conflicts of interest;

(iii) in the case of the entities, be public or non-profit private entities; and

(iv) meet such additional requirements as the Ombudsman may specify.

(D) POLICIES AND PROCEDURES.—

(i) IN GENERAL.—The State agency shall establish, in accordance with the Office, policies and procedures for monitoring local Ombudsman entities designated to carry out the duties of the Office.

(ii) POLICIES.—In a case in which the entities are grantees, or the representatives are employees, of area agencies on aging, the State agency shall develop the policies in consultation with the area agencies on aging. The policies shall provide for participation and comment by the agencies and for resolution of concerns with respect to case activity.

(iii) CONFIDENTIALITY AND DISCLOSURE.—The State agency shall develop the policies and procedures in accordance with all provisions of this subtitle regarding confidentiality and conflict of interest.

(b) PROCEDURES FOR ACCESS.—

(1) IN GENERAL.—The State shall ensure that representatives of the Office shall have—

(A) access to long-term care facilities and residents;

(B)(i) appropriate access to review the medical and social records of a resident, if—

(I) the representative has the permission of the resident, or the legal representative of the resident; or

(II) the resident is unable to consent to the review and has no legal representative; or

(ii) access to the records as is necessary to investigate a complaint if—

(I) a legal guardian of the resident refuses to give the permission;

(II) a representative of the Office has reasonable cause to believe that the guardian is not acting in the best interests of the resident; and

(III) the representative obtains the approval of the Ombudsman;

(C) access to the administrative records, policies, and documents, to which the residents have, or the general public has access, of long-term care facilities; and

(D) access to and, on request, copies of all licensing and certification records maintained by the State with respect to long-term care facilities.

(2) PROCEDURES.—The State agency shall establish procedures to ensure the access described in paragraph (1).

(c) REPORTING SYSTEM.—The State agency shall establish a statewide uniform reporting system to—

(1) collect and analyze data relating to complaints and conditions in long-term care facilities and to residents for the purpose of identifying and resolving significant problems; and

(2) submit the data, on a regular basis, to—

(A) the agency of the State responsible for licensing or certifying long-term care facilities in the State;

(B) other State and Federal entities that the Ombudsman determines to be appropriate;

(C) the Commissioner; and

(D) the National Ombudsman Resource Center established in section 202(a)(21).

(d) DISCLOSURE.—

(1) IN GENERAL.—The State agency shall establish procedures for the disclosure by the Ombudsman or local Ombudsman entities of files maintained by the program, including records described in subsection (b)(1) or (c).

(2) IDENTITY OF COMPLAINANT OR RESIDENT.—The procedures described in paragraph (1) shall—

(A) provide that, subject to subparagraph (B), the files and records described in paragraph (1) may be disclosed only at the discretion of the Ombudsman (or the person designated by the Ombudsman to disclose the files and records); and

(B) prohibit the disclosure of the identity of any complainant or resident with respect to whom the Office maintains such files or records unless—

(i) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;

(ii)(I) the complainant or resident gives consent orally; and

(II) the consent is documented contemporaneously in a writing made by a representative of the Office in accordance with such requirements as the State agency shall establish; or

(iii) the disclosure is required by court order.

(e) CONSULTATION.—In planning and operating the program, the State agency shall consider the views of area agencies on aging, older individuals, and providers of long-term care.

(f) **CONFLICT OF INTEREST.**—The State agency shall—

(1) ensure that no individual, or member of the immediate family of an individual, involved in the designation of the Ombudsman (whether by appointment or otherwise) or the designation of an entity designated under subsection (a)(5), is subject to a conflict of interest;

(2) ensure that no officer or employee of the Office, representative of a local Ombudsman entity, or member of the immediate family of the officer, employee, or representative, is subject to a conflict of interest;

(3) ensure that the Ombudsman—

(A) does not have a direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care service;

(B) does not have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or a long-term care service;

(C) is not employed by, or participating in the management of, a long-term care facility; and

(D) does not receive, or have the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility; and

(4) establish, and specify in writing, mechanisms to identify and remove conflicts of interest referred to in paragraphs (1) and (2), and to identify and eliminate the relationships described in subparagraphs (A) through (D) of paragraph (3), including such mechanisms as—

(A) the methods by which the State agency will examine individuals, and immediate family members, to identify the conflicts; and

(B) the actions that the State agency will require the individuals and such family members to take to remove such conflicts.

(g) **LEGAL COUNSEL.**—The State agency shall ensure that—

(1)(A) adequate legal counsel is available, and is able, without conflict of interest, to—

(i) provide advice and consultation needed to protect the health, safety, welfare, and rights of residents; and

(ii) assist the Ombudsman and representatives of the Office in the performance of the official duties of the Ombudsman and representatives; and

(B) legal representation is provided to any representative of the Office against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties of the Ombudsman or such a representative; and

(2) the Office pursues administrative, legal, and other appropriate remedies on behalf of residents.

(h) **ADMINISTRATION.**—The State agency shall require the Office to—

(1) prepare an annual report—

(A) describing the activities carried out by the Office in the year for which the report is prepared;

(B) containing and analyzing the data collected under subsection (c);

(C) evaluating the problems experienced by, and the complaints made by or on behalf of, residents;

(D) containing recommendations for—

(i) improving quality of the care and life of the residents; and

(ii) protecting the health, safety, welfare, and rights of the residents;

(E)(i) analyzing the success of the program including success in providing services to residents of board and care facilities and other similar adult care facilities; and

(ii) identifying barriers that prevent the optimal operation of the program; and

(F) providing policy, regulatory, and legislative recommendations to solve identified problems, to resolve the complaints, to improve the quality of care and life of residents, to protect the health, safety, welfare, and rights of residents, and to remove the barriers;

(2) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services, and to the health, safety, welfare, and rights of residents, in the State, and recommend any changes in such laws, regulations, and policies as the Office determines to be appropriate;

(3)(A) provide such information as the Office determines to be necessary to public and private agencies, legislators, and other persons, regarding—

(i) the problems and concerns of older individuals residing in long-term care facilities; and

(ii) recommendations related to the problems and concerns; and

(B) make available to the public, and submit to the Commissioner, the chief executive officer of the State, the State legislature, the State agency responsible for licensing or certifying long-term care facilities, and other appropriate governmental entities, each report prepared under paragraph (1);

(4)(A) not later than 1 year after the date of the enactment of this title, establish procedures for the training of the representatives of the Office, including unpaid volunteers, based on model standards established by the Associate Commissioner for Ombudsman Programs, in consultation with representatives of citizen groups, long-term care providers, and the Office, that—

(i) specify a minimum number of hours of initial training;

(ii) specify the content of the training, including training relating to—

(I) Federal, State, and local laws, regulations, and policies, with respect to long-term care facilities in the State;

(II) investigative techniques; and

(III) such other matters as the State determines to be appropriate; and

(iii) specify an annual number of hours of in-service training for all designated representatives; and

(B) require implementation of the procedures not later than 21 months after the date of the enactment of this title;

(5) prohibit any representative of the Office (other than the Ombudsman) from carrying out any activity described in subparagraphs (A) through (G) of subsection (a)(3) unless the representative—

(A) has received the training required under paragraph (4); and

(B) has been approved by the Ombudsman as qualified to carry out the activity on behalf of the Office;

(6) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illnesses established under—

(A) part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.); and

(B) the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

(7) coordinate, to the greatest extent possible, ombudsman services with legal assistance provided under section 306(a)(2)(C), through adoption of memoranda of understanding and other means; and

(8) permit any local Ombudsman entity to carry out the responsibilities described in paragraph (1), (2), (3), (6), or (7).

(i) **LIABILITY.**—The State shall ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.

(j) **NONINTERFERENCE.**—The State shall—

(1) ensure that willful interference with representatives of the Office in the performance of the official duties of the representatives (as defined by the Commissioner) shall be unlawful;

(2) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of the Office; and

(3) provide for appropriate sanctions with respect to the interference, retaliation, and reprisals.

(42 U.S.C. 3058g)

#### **SEC. 713. REGULATIONS.**

The Commissioner shall issue and periodically update regulations respecting—

(1) conflicts of interest by persons described in paragraphs (1) and (2) of section 712(f); and

(2) the relationships described in subparagraphs (A) through (D) of section 712(f)(3).

(42 U.S.C. 3058h)

**CHAPTER 3—PROGRAMS FOR PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION****SEC. 721. PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION.**

(a) **ESTABLISHMENT.**—In order to be eligible to receive an allotment under section 703 from funds appropriated under section 702(b), a State agency shall, in accordance with this section, and in consultation with area agencies on aging, develop and enhance programs for the prevention of elder abuse, neglect, and exploitation.

(b) **USE OF ALLOTMENTS.**—The State agency shall use an allotment made under subsection (a) to carry out, through the programs described in subsection (a), activities to develop, strengthen, and carry out programs for the prevention and treatment of elder abuse, neglect, and exploitation, including—

(1) providing for public education and outreach to identify and prevent elder abuse, neglect, and exploitation;

(2) ensuring the coordination of services provided by area agencies on aging with services instituted under the State adult protection service program;

(3) promoting the development of information and data systems, including elder abuse reporting systems, to quantify the extent of elder abuse, neglect, and exploitation in the State;

(4) conducting analyses of State information concerning elder abuse, neglect, and exploitation and identifying unmet service, enforcement, or intervention needs;

(5) conducting training for individuals, professionals, and paraprofessionals, in relevant fields on the identification, prevention, and treatment of elder abuse, neglect, and exploitation, with particular focus on prevention and enhancement of self-determination and autonomy;

(6) providing technical assistance to programs that provide or have the potential to provide services for victims of elder abuse, neglect, and exploitation and for family members of the victims;

(7) conducting special and on-going training, for individuals involved in serving victims of elder abuse, neglect, and exploitation, on the topics of self-determination, individual rights, State and Federal requirements concerning confidentiality, and other topics determined by a State agency to be appropriate; and

(8) promoting the development of an elder abuse, neglect, and exploitation system—

(A) that includes a State elder abuse, neglect, and exploitation law that includes provisions for immunity, for persons reporting instances of elder abuse, neglect, and exploitation, from prosecution arising out of such reporting, under any State or local law;

(B) under which a State agency—

(i) on receipt of a report of known or suspected instances of elder abuse, neglect, or exploitation, shall

promptly initiate an investigation to substantiate the accuracy of the report; and

(ii) on a finding of elder abuse, neglect, or exploitation, shall take steps, including appropriate referral, to protect the health and welfare of the abused, neglected, or exploited older individual;

(C) that includes, throughout the State, in connection with the enforcement of elder abuse, neglect, and exploitation laws and with the reporting of suspected instances of elder abuse, neglect, and exploitation—

(i) such administrative procedures;

(ii) such personnel trained in the special problems of elder abuse, neglect, and exploitation prevention and treatment;

(iii) such training procedures;

(iv) such institutional and other facilities (public and private); and

(v) such related multidisciplinary programs and services,

as may be necessary or appropriate to ensure that the State will deal effectively with elder abuse, neglect, and exploitation cases in the State;

(D) that preserves the confidentiality of records in order to protect the rights of older individuals;

(E) that provides for the cooperation of law enforcement officials, courts of competent jurisdiction, and State agencies providing human services with respect to special problems of elder abuse, neglect, and exploitation;

(F) that enables an older individual to participate in decisions regarding the welfare of the older individual, and makes the least restrictive alternatives available to an older individual who is abused, neglected, or exploited; and

(G) that includes a State clearinghouse for dissemination of information to the general public with respect to—

(i) the problems of elder abuse, neglect, and exploitation;

(ii) the facilities described in subparagraph (C)(iv); and

(iii) prevention and treatment methods available to combat instances of elder abuse, neglect, and exploitation.

(c) **APPROACH.**—In developing and enhancing programs under subsection (a), the State agency shall use a comprehensive approach, in consultation with area agencies on aging, to identify and assist older individuals who are subject to abuse, neglect, and exploitation, including older individuals who live in State licensed facilities, unlicensed facilities, or domestic or community-based settings.

(d) **COORDINATION.**—In developing and enhancing programs under subsection (a), the State agency shall coordinate the programs with other State and local programs and services for the protection of vulnerable adults, particularly vulnerable older individuals, including programs and services such as—

(1) area agency on aging programs;

- (2) adult protective service programs;
- (3) the State Long-Term Care Ombudsman program established in chapter 2;
- (4) protection and advocacy programs;
- (5) facility and long-term care provider licensure and certification programs;
- (6) medicaid fraud and abuse services, including services provided by a State medicaid fraud control unit, as defined in section 1903(q) of the Social Security Act (42 U.S.C. 1396b(q));
- (7) victim assistance programs; and
- (8) consumer protection and law enforcement programs, as well as other State and local programs that identify and assist vulnerable older individuals.

(e) REQUIREMENTS.—In developing and enhancing programs under subsection (a), the State agency shall—

- (1) not permit involuntary or coerced participation in such programs by alleged victims, abusers, or members of their households;
- (2) require that all information gathered in the course of receiving a report described in subsection (b)(8)(B)(i), and making a referral described in subsection (b)(8)(B)(ii), shall remain confidential except—

(A) if all parties to such complaint or report consent in writing to the release of such information;

(B) if the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system; or

(C) upon court order; and

- (3) make all reasonable efforts to resolve any conflicts with other public agencies with respect to confidentiality of the information described in paragraph (2) by entering into memoranda of understanding that narrowly limit disclosure of information, consistent with the requirement described in paragraph (2).

(f) DESIGNATION.—The State agency may designate a State entity to carry out the programs and activities described in this chapter.

(42 U.S.C. 3058i)

#### **CHAPTER 4—STATE ELDER RIGHTS AND LEGAL ASSISTANCE DEVELOPMENT PROGRAM**

##### **SEC. 731. STATE ELDER RIGHTS AND LEGAL ASSISTANCE DEVELOPMENT.**

(a) ESTABLISHMENT.—

- (1) IN GENERAL.—In order to be eligible to receive an allotment under section 703 from funds appropriated under section 702(c), a State agency shall, in accordance with this section and in consultation with area agencies on aging, establish a program to provide leadership for improving the quality and quantity of legal and advocacy assistance as a means for ensuring a comprehensive elder rights system.

(2) **COORDINATION AND ASSISTANCE.**—In carrying out the program established under this chapter, the State agency shall coordinate, and provide assistance to, area agencies on aging and other entities in the State that assist older individuals in—

- (A) understanding the rights of the older individuals;
- (B) exercising choice;
- (C) benefiting from services and opportunities authorized by law;
- (D) maintaining the rights of the older individuals and, in particular, of the older individuals with reduced capacity; and
- (E) solving disputes.

(b) **FUNCTIONS.**—In carrying out this chapter, the State agency shall—

(1) establish a focal point for elder rights policy review, analysis, and advocacy at the State level, including such issues as guardianship, age discrimination, pension and health benefits, insurance, consumer protection, surrogate decisionmaking, protective services, public benefits, and dispute resolution;

(2) provide an individual who shall be known as a State legal assistance developer, and other personnel, sufficient to ensure—

(A) State leadership in securing and maintaining legal rights of older individuals;

(B) State capacity for coordinating the provision of legal assistance;

(C) State capacity to provide technical assistance, training and other supportive functions to area agencies on aging, legal assistance providers, ombudsmen, and other persons as appropriate; and

(D) State capacity to promote financial management services for older individuals at risk of conservatorship;

(3)(A) develop, in conjunction with area agencies on aging and legal assistance providers, statewide standards for the delivery of legal assistance to older individuals; and

(B) provide technical assistance to area agencies on aging and legal assistance providers to enhance and monitor the quality and quantity of legal assistance to older individuals, including technical assistance in developing plans for targeting services to reach the older individuals with greatest economic need and older individuals with greatest social need, with particular attention to low-income minority individuals;

(4) provide consultation to, and ensure, the coordination of activities with the legal assistance provided under title III, services provided by the Legal Service<sup>1</sup> Corporation, and services provided under chapters 2, 3, and 5, as well as other State or Federal programs administered at the State and local levels that address the legal assistance needs of older individuals;

(5) provide for the education and training of professionals, volunteers, and older individuals concerning elder rights, the

<sup>1</sup> Error in amendment made by section 704 of Public Law 102-375. Should strike "Service" and insert "Services".

requirements and benefits of specific laws, and methods for enhancing the coordination of services;

(6) promote, and provide as appropriate, education and training for individuals who are or might become guardians or representative payees of older individuals, including information on—

(A) the powers and duties of guardians or representative payees; and

(B) alternatives to guardianship;

(7) promote the development of, and provide technical assistance concerning, pro bono legal assistance programs, State and local bar committees on aging, legal hot lines, alternative dispute resolution, programs and curricula, related to the rights and benefits of older individuals, in law schools and other institutions of higher education, and other methods to expand access by older individuals to legal assistance and advocacy and vulnerable elder rights protection activities;

(8) provide for periodic assessments of the status of elder rights in the State, including analysis—

(A) of the unmet need for assistance in resolving legal problems and benefits-related problems, methods for expanding advocacy services, the status of substitute decisionmaking systems and services (including systems and services regarding guardianship, representative payeeship, and advance directives), access to courts and the justice system, and the implementation of civil rights and age discrimination laws in the State; and

(B) of problems and unmet needs identified in programs established under title III and other programs; and

(9) for the purpose of identifying vulnerable elder rights protection activities provided by the entities under this chapter, and coordinating the activities with programs established under title III and chapters 2, 3, and 5, develop working agreements with—

(A) State entities, including the consumer protection agency, the court system, the attorney general, the State equal employment opportunity commission, and other State agencies; and

(B) Federal entities, including the Social Security Administration, Health Care Financing Administration, and the Department of Veterans' Affairs, and other entities.

(42 U.S.C. 3058j)

## CHAPTER 5—OUTREACH, COUNSELING, AND ASSISTANCE PROGRAM

### SEC. 741. STATE OUTREACH, COUNSELING, AND ASSISTANCE PROGRAM FOR INSURANCE AND PUBLIC BENEFITS.

(a) DEFINITIONS.—As used in this section:

(1) INSURANCE BENEFIT.—The term “insurance benefit” means a benefit under—

(A) the medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(B) the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(C) a public or private insurance program;

(D) a medicare supplemental policy; or

(E) a pension plan.

(2) **MEDICARE SUPPLEMENTAL POLICY.**—The term “medicare supplemental policy” has the meaning given the term in section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1)).

(3) **PENSION PLAN.**—The term “pension plan” means an employee pension benefit plan, as defined in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)).

(4) **PUBLIC BENEFIT.**—The term “public benefit” means a benefit under—

(A) the Federal Old-Age, Survivors, and Disability Insurance Benefits programs under title II of the Social Security Act (42 U.S.C. 401 et seq.);

(B) the medicare program established under title XVIII of the Social Security Act, including benefits as a qualified medicare beneficiary, as defined in section 1905(p) of the Social Security Act;

(C) the medicaid program established under title XIX of the Social Security Act;

(D) the program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(E) the program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.);

(F) the supplemental security income program established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.); or

(G) a program determined to be appropriate by the Commissioner.

(5) **STATE INSURANCE ASSISTANCE PROGRAM.**—The term “State insurance assistance program” means the program established under subsection (b)(1).

(6) **STATE PUBLIC BENEFIT ASSISTANCE PROGRAM.**—The term “State public benefit assistance program” means the program established under subsection (b)(2).

(b) **ESTABLISHMENT.**—In order to receive an allotment under section 703 from funds appropriated under section 702(d), a State agency shall, in coordination with area agencies on aging and in accordance with this section, establish—

(1) a program to provide to older individuals outreach, counseling, and assistance related to obtaining insurance benefits; and

(2) a program to provide outreach, counseling, and assistance to older individuals who may be eligible for, but who are not receiving, public benefits.

(c) **INSURANCE AND PUBLIC BENEFITS.**—The State agency shall—

(1) in carrying out a State insurance assistance program—

(A) provide information and counseling to assist older individuals—

(i) in filing claims and obtaining benefits under title XVIII and title XIX of the Social Security Act;

(ii) in comparing medicare supplemental policies and in filing claims and obtaining benefits under such policies;

(iii) in comparing long-term care insurance policies and in filing claims and obtaining benefits under such policies;

(iv) in comparing other types of health insurance policies not described in clause (iii) and in filing claims and obtaining benefits under such policies;

(v) in comparing life insurance policies and in filing claims and obtaining benefits under such policies;

(vi) in comparing other forms of insurance policies not described in clause (v), in comparing pension plans, and in filing claims and obtaining benefits under such policies and plans as the State agency may determine to be necessary; and

(vii) in comparing current and future health and post-retirement needs related to pension plans, and the relationship of benefits under such plans to insurance benefits and public benefits;

(B) establish a system of referrals to appropriate providers of legal assistance, and to appropriate agencies of the Federal or State government regarding the problems of older individuals related to health insurance benefits, other insurance benefits, and public benefits;

(C) give priority to providing assistance to older individuals with greatest economic need;

(D) ensure that services provided under the program will be coordinated with programs established under chapters 2, 3, and 4, and under title III;

(E) provide for adequate and trained staff (including volunteers) necessary to carry out the program;

(F) ensure that staff (including volunteers) of the agency and of any agency or organization described in subsection (d) will not be subject to a conflict of interest in providing services under the program;

(G) provide for the collection and dissemination of timely and accurate information to staff (including volunteers) related to insurance benefits and public benefits;

(H) provide for the coordination of information on insurance benefits between the staff of departments and agencies of the State government and the staff (including volunteers) of the program; and

(I) make recommendations related to consumer protection that may affect individuals eligible for, or receiving, health or other insurance benefits; and

(2) in carrying out a State public benefits assistance program—

(A) carry out activities to identify older individuals with greatest economic need who may be eligible for, but who are not receiving, public benefits;

(B) conduct outreach activities to inform older individuals of the requirements for eligibility to receive such benefits;

(C) assist older individuals in applying for such benefits;

(D) establish a system of referrals to appropriate providers of legal assistance, or to appropriate agencies of the Federal or State government regarding the problems of older individuals related to public benefits;

(E) comply with the requirements specified in subparagraphs (C) through (F) of paragraph (1) with respect to the State public benefits assistance program;

(F) provide for the collection and dissemination of timely and accurate information to staff (including volunteers) related to public benefits;

(G) provide for the coordination of information on public benefits between the staff of State entities and the staff (including volunteers) of the State public benefits assistance program; and

(H) make recommendations related to consumer protection that may affect individuals eligible for, or receiving, public benefits.

(d) **ADMINISTRATION.**—The State agency may operate the State insurance assistance program and the State public benefits assistance program directly, in cooperation with other State agencies, or under an agreement with a statewide nonprofit organization, an area agency on aging, or another public or nonprofit agency or organization.

(e) **MAINTENANCE OF EFFORT.**—Any funds appropriated for the activities under this chapter shall supplement, and shall not supplant, funds that are expended for similar purposes under any Federal, State, or local program providing insurance benefits or public benefits.

(f) **COORDINATION.**—A State that receives an allotment under section 703 and receives a grant to provide services under section 4360 of the Omnibus Reconciliation Act of 1990 (42 U.S.C. 1395b-4) shall coordinate the services with activities provided by the State agency through the programs described in paragraphs (1) and (2) of subsection (b).

(42 U.S.C. 3058k)

## **Subtitle B—Native American Organization Provisions**

### **SEC. 751. NATIVE AMERICAN PROGRAM.**

(a) **ESTABLISHMENT.**—The Commissioner, acting through the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging, shall establish and carry out a program for—

(1) assisting eligible entities in prioritizing, on a continuing basis, the needs of the service population of the entities relating to elder rights; and

(2) making grants to eligible entities to carry out vulnerable elder rights protection activities that the entities determine to be priorities.

(b) APPLICATION.—In order to be eligible to receive assistance under this subtitle, an entity shall submit an application to the Commissioner, at such time, in such manner, and containing such information as the Commissioner may require.

(c) ELIGIBLE ENTITY.—An entity eligible to receive assistance under this section shall be—

(1) an Indian tribe; or

(2) a public agency, or a nonprofit organization, serving older individuals who are Native Americans.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$5,000,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993, 1994, and 1995.

(42 U.S.C. 3058aa)

## Subtitle C—General Provisions

### SEC. 761. DEFINITIONS.

As used in this title:

(1) ELDER RIGHT.—The term “elder right” means a right of an older individual.

(2) VULNERABLE ELDER RIGHTS PROTECTION ACTIVITY.—The term “vulnerable elder rights protection activity” means an activity funded under chapter 2, 3, 4, or 5 of this title.

(42 U.S.C. 3058bb)

### SEC. 762. ADMINISTRATION.

A State agency or an entity described in section 751(c) may carry out vulnerable elder rights protection activities either directly or through contracts or agreements with public or nonprofit private agencies or organizations, such as—

(1) other State agencies;

(2) area agencies on aging;

(3) county governments;

(4) institutions of higher education;

(5) Indian tribes; or

(6) nonprofit service providers or volunteer organizations.

(42 U.S.C. 3058cc)

### SEC. 763. TECHNICAL ASSISTANCE.

(a) OTHER AGENCIES.—In carrying out the provisions of this title, the Commissioner may request the technical assistance and cooperation of such Federal entities as may be appropriate.

(b) COMMISSIONER.—The Commissioner shall provide technical assistance and training (by contract, grant, or otherwise) to persons and entities that administer programs established under this title.

(42 U.S.C. 3058dd)

**SEC. 764. AUDITS.**

(a) **ACCESS.**—The Commissioner, the Comptroller General of the United States, and any duly authorized representative of the Commissioner or the Comptroller shall have access, for the purpose of conducting an audit or examination, to any books, documents, papers, and records that are pertinent to financial assistance received under this title.

(b) **LIMITATION.**—State agencies, area agencies on aging, and entities described in section 751(c) shall not request information or data from providers that is not pertinent to services furnished under this title or to a payment made for the services.

(42 U.S.C. 3058ee)

# [ECONOMIC OPPORTUNITY ACT OF 1964]<sup>1</sup>

[Public Law 88-452; August 20, 1964 (78 Stat. 508)]

## TITLE VIII—NATIVE AMERICAN PROGRAMS

### SHORT TITLE

SEC. 801. This title may be cited as the "Native American Programs Act of 1974".

(42 U.S.C. 2991)

### STATEMENT OF PURPOSE

SEC. 802. The purpose of this title is to promote the goal of economic and social self-sufficiency for American Indians, Native Hawaiians, other Native American Pacific Islanders (including American Samoan Natives), and Alaskan Natives.<sup>2</sup>

(42 U.S.C. 2991a)

### FINANCIAL ASSISTANCE FOR NATIVE AMERICAN PROJECTS

SEC. 803. (a) The Commissioner is authorized to provide financial assistance, on a single year or multiyear basis, to public and nonprofit private agencies, including but not limited to, governing bodies of Indian tribes on Federal and State reservations, Alaska Native villages and regional corporations established by the Alaska Native Claims Settlement Act, and such public and nonprofit private agencies serving Native Hawaiians, and Indian and Alaska Native organizations in urban or rural nonreservation areas<sup>3</sup>, for project pertaining to the purposes of this title. The Commissioner is authorized to provide financial assistance to public and nonprofit private agencies serving other Native American Pacific Islanders (including American Samoan Natives) for projects pertaining to the purposes of this Act. In determining the projects to be assisted under this title, the Commissioner shall consult with other Federal agencies for the purpose of eliminating duplication or conflict among similar activities or project and for the purpose of determining whether the findings resulting from those projects may be incorporated into one or more programs for which those agencies are responsible. Every determination made with respect to a request for financial assistance under this section shall be made without regard to whether the agency making such request serves, or the project to be assisted is for the benefit of, Indians who are not

<sup>1</sup> Section 683(a) of Public Law 97-35 repeals all of this Act except title VIII and title X. Thus, the short title of the Act is repealed.

<sup>2</sup> Amendment made by section 822(21) of Public Law 102-375 cannot be executed because it inaccurately quotes matter to be stricken. Should strike "Alaskan" and insert "Alaska".

<sup>3</sup> Section 822(1)(B)(ii) of Public Law 102-375, attempted to amend this sentence by striking "nonreservation area" and inserting "area that is not an Indian reservation or Alaska Native village", but cannot be executed because it inaccurately quoted the matter to be stricken.

members of a federally recognized tribe. To the greatest extent practicable, the Commissioner shall ensure that each project to be assisted under this title is consistent with the priorities established by the agency which receives such assistance.

(b) Financial assistance extended to an agency under this title shall not exceed 80 per centum of the approved costs of the assisted project, except that the Commissioner may approve assistance in excess of such percentage if the Commissioner determines, in accordance with regulations establishing objective criteria, that such action required in furtherance of the purposes of this title. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services. The Commissioner shall not require non-Federal contributions in excess of 20 per centum of the approved cost of programs or activities assisted under this title.

(c)(1) No project shall be approved for assistance under this title unless the Commissioner is satisfied that the activities to be carried out under such project will be in addition to, and not in substitution for, comparable activities previously carried out without Federal assistance, except that the Commissioner may waive this requirement in any case in which the Commissioner determines, in accordance with regulations establishing objective criteria, that application of the requirement would result in unnecessary hardship or otherwise be inconsistent with the purposes of this title.

(2) No project may be disapproved for assistance under this title solely because the agency requesting such assistance is an Indian organization in a nonreservation area or serves Indians in a nonreservation area.

(d)(1) The Commissioner shall award grants to Indian tribes for the purpose of funding 80 percent of the costs of planning, developing, and implementing programs designed to improve the capability of the governing body of the Indian tribe to regulate environmental quality pursuant to Federal and tribal environmental laws.

(2) The purposes for which funds provided under any grant awarded under paragraph (1) may be used include, but are not limited to—

(A) the training and education of employees responsible for enforcing, or monitoring compliance with, environmental quality laws,

(B) the development of tribal laws on environmental quality, and

(C) the enforcement and monitoring of environmental quality laws.

(3) The 20 percent of the costs of planning, developing, and implementing a program for which a grant is awarded under paragraph (1) that are not to be paid from such grant may be paid by the grant recipient in cash or through the provision of property or services, but only to the extent that such cash or property is from any source (including any Federal agency) other than a program, contract, or grant authorized under this title.

(4) Grants shall be awarded under paragraph (1) on the basis of applications that are submitted by Indian tribes to the Commissioner in such form as the Commissioner shall prescribe.

(42 U.S.C. 2991b)

LOAN FUND; DEMONSTRATION PROJECT

SEC. 803A. (a)(1) In order to provide funding that is not available from private sources, the Commissioner shall award grants to the Office of Hawaiian Affairs of the State of Hawaii (referred to in this section as the "Office"), which shall use such grants to establish and carry out, in the State of Hawaii, a demonstration project involving the establishment of a revolving loan fund—

(A) from which the Office shall make loans to Native Hawaiian organizations and to individual Native Hawaiians for the purpose of promoting economic development in the State of Hawaii; and

(B) into which all payments, interest, charges, and other amounts collected from loans made under subparagraph (A) shall be deposited notwithstanding any other provision of law.

(2) The agreement under which a grant is awarded under paragraph (1) shall contain provisions which set forth the administrative costs of the grantee that are to be paid out of the funds provided under the grant and a requirement that the grantee contribute to the revolving loan fund an amount of non-Federal funds equal to the amount of such grant.

(b)(1) The Office to which a grant is awarded under subsection (a)(1)<sup>1</sup> may make loans to a borrower under subsection (a)(1)(A) only if the Office determines that—

(A) the borrower is unable to obtain financing from other sources on reasonable terms and conditions; and

(B) there is a reasonable prospect that the borrower will repay the loan.

(2) Loans made under subsection (a)(1)(A) shall be—

(A) for a term that does not exceed 5 years; and

(B) at a rate of interest that is 2 percentage points below the average market yield on the most recent public offering of United States Treasury bills occurring before the date on which the loan is made.

(3) The Office to which a grant is awarded under subsection (a)(1)<sup>1</sup> may require any borrower of a loan made under subsection (a)(1)(A) to provide such collateral as the Office determines to be necessary to secure the loan.

(4) Prior to making loans under subsection (a)(1)(A), the Office to which a grant is awarded under subsection (a)(1)<sup>1</sup> shall establish written procedures and definitions pertaining to defaults and collections of payments under the loans which shall be subject to the review and approval of the Commissioner. Such Office shall provide to each applicant for a loan under subsection (a)(1)(A), at

<sup>1</sup> Although the amendment made by section 822(2)(C) of Public Law 102-375 was executed, a technical amendment is needed to strike "to which a grant is awarded under subsection (a)(1)". Section 822(2)(B) of Public Law 102-375 cannot be executed because it inaccurately quotes language to be stricken.

the time application for the loan is made, a written copy of such procedures and definitions.

(5) The Office to which a grant is awarded under subsection (a)(1)<sup>1</sup> may not lend to itself any of the funds awarded under the grant.

(c)(1) The Office to which a grant is awarded under subsection (a)(1)<sup>1</sup> shall provide the Commissioner at regular intervals written notice of each loan made under subsection (a)(1)(A) that is in default and the status of such loan.

(2)(A) After making reasonable efforts to collect all amounts payable under a loan made under subsection (a)(1)(A) that is in default, the Office to which a grant is awarded under subsection (a)(1)<sup>1</sup> shall notify the Commissioner that such loan is uncollectable or collectable only at an unreasonable cost. Such notice shall include recommendations for future action to be taken by the Office.

(B) Upon receiving such notice, the Commissioner shall instruct the Office—

(i) to continue with its collection activities;

(ii) to cancel, adjust, compromise, or reduce the amount of such loan; or

(iii) to modify any term or condition of such loan, including any term or condition relating to the rate of interest or the time of payment of any installment of principal or interest, or portion thereof, that is payable under such loan.

(C) The Office shall carry out all instructions received under subparagraph (B) from the Commissioner.

(d)(1) The Office to which a grant is awarded under subsection (a)(1)<sup>1</sup> shall, out of funds available in the revolving loan fund established under such subsection—

(A) pay expenses incurred by the Office in administering the revolving loan fund; and

(B) provide competent management and technical assistance to borrowers of loans made under subsection (a)(1)(A) to assist the borrowers to achieve the purposes of such loans.

(2) The Commissioner shall provide to the agency or organization to which a grant is made under subsection (a)(1)<sup>1</sup> such management and technical assistance as the Office may request in order to carry out the provisions of this section.

(e) Not later than 120 days after the date of enactment of the Native American Programs Act Amendments of 1987, the Commissioner, in consultation with appropriate agencies of the State of Hawaii and community-based Native Hawaiian organizations, shall prescribe regulations which set forth the procedures and criteria to be used—

(1) in making loans under subsection (a)(1)(A); and

(2) in canceling, adjusting, compromising, and reducing under subsection (c) the outstanding amounts of such loans.

<sup>1</sup>Although the amendment made by section 822(2)(C) of Public Law 102-375 was executed, a technical amendment is needed to strike "to which a grant is awarded under subsection (a)(1)". Section 822(2)(B) of Public Law 102-375 cannot be executed because it inaccurately quotes language to be stricken.

The Commissioner may prescribe such other regulations as may be necessary to carry out the purposes of this section, including regulations involving reporting and auditing.

(f)(1) There is authorized to be appropriated for fiscal years 1988, 1989, and 1990 the aggregate amount \$3,000,000 for all such fiscal years<sup>1</sup> for the purpose of carrying out the provisions of this section. Any amount appropriated under this paragraph shall remain available for expenditure without fiscal year limitation.

(2) The revolving loan fund that is required to be established under subsection (a)(1) shall be maintained as a separate account. Any portion of the revolving loan fund that is not required for expenditure shall be invested in obligations of the United States or in obligations guaranteed or insured by the United States.

(g)(1) The Commissioner, in consultation with the Office, shall submit a report to the President pro tempore of the Senate and the Speaker of the House of Representatives not later than January 1 following each fiscal year, regarding the administration of this section in such fiscal year.

(2) Such report shall include the views and recommendations of the Commissioner with respect to the revolving loan fund established under subsection (a)(1) and with respect to loans made from such fund, and shall—

(A) describe the effectiveness of the operation of such fund in improving the economic and social self-sufficiency of Native Hawaiians;

(B) specify the number of loans made in such fiscal year;

(C) specify the number of loans outstanding as of the end of such fiscal year; and

(D) specify the number of borrowers who fail in such fiscal year to repay loans in accordance with the agreements under which such loans are required to be repaid.

(42 U.S.C. 2991b-1)

#### ESTABLISHMENT OF ADMINISTRATION FOR NATIVE AMERICANS

SEC. 803B. (a) There is established in the Department of Health and Human Services (referred to in this title as the "Department") the Administration for Native Americans (referred to in this title as the "Administration"), which shall be headed by a Commissioner of the Administration for Native Americans (referred to in this title as the "Commissioner"). The Administration shall be the agency responsible for carrying out the provisions of this title.

(b) The Commissioner shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The Commissioner shall—

(1) provide for financial assistance, loan funds, technical assistance, training, research and demonstration projects, and other activities, described in this title;

(2) serve as the effective and visible advocate on behalf of Native Americans within the Department, and with other de-

<sup>1</sup> Section 822(2)(G) of Public Law 102-375, attempted to amend section 803A(f)(1) by striking "fiscal years 1988, 1989, and 1990 the aggregate amount of \$3,000,000 for all such fiscal years" and inserting "each of the fiscal years 1992, 1993, and 1994, \$1,000,000", but cannot be executed because it inaccurately quotes the matter to be stricken.

partments and agencies of the Federal Government regarding all Federal policies affecting Native Americans;

(3) with the assistance of the Intra-Departmental Council on Native American Affairs established by subsection (d)(1), coordinate activities within the Department leading to the development of policies, programs, and budgets, and their administration affecting Native Americans, and provide quarterly reports and recommendations to the Secretary;

(4) collect and disseminate information related to the social and economic conditions of Native Americans, and assist the Secretary in preparing an annual report to the Congress about such conditions;

(5) give preference to individuals who are eligible for assistance under this title, in entering into contracts for technical assistance, training, and evaluation under this title; and

(6) encourage agencies that carry out projects under this title, to give preference to such individuals in hiring and entering into contracts to carry out such projects.

(d)(1) There is established in the Office of the Secretary the Intra-Departmental Council on Native American Affairs. The Commissioner shall be the chairperson of such Council and shall advise the Secretary on all matters affecting Native Americans that involve the Department. The Director of the Indian Health Service shall serve as vice chairperson of the Council.

(2) The membership of the Council shall be the heads of principal operating divisions within the Department, as determined by the Secretary, and such persons in the Office of the Secretary as the Secretary may designate.

(3) In addition to the duties described in subsection (c)(3), the Council shall, within 180 days following the date of the enactment of the Native American Programs Act Amendments of 1992, prepare a plan, including legislative recommendations, to allow tribal governments and other organizations described in section 803(a) to consolidate grants administered by the Department and to designate a single office to oversee and audit the grants. Such plan shall be submitted to the committees of the Senate and the House of Representatives having jurisdiction over the Administration for Native Americans.

(e) The Secretary shall assure that adequate staff and administrative support is provided to carry out the purpose of this title. In determining the staffing levels of the Administration, the Secretary shall consider among other factors the unmet needs of the Native American population, the need to provide adequate oversight and technical assistance to grantees, the need to carry out the activities of the Council, the additional reporting requirements established, and the staffing levels previously maintained in support of the Administration.

(42 U.S.C. 2991b-2)

**SEC. 803C. GRANT PROGRAM TO ENSURE THE SURVIVAL AND CONTINUING VITALITY OF NATIVE AMERICAN LANGUAGES.**

(a) **AUTHORITY TO AWARD GRANTS.**—The Secretary shall award a grant to any agency or organization that is—

(1) eligible for financial assistance under section 803(a);  
and

(2) selected under subsection (c);

to be used to assist Native Americans in ensuring the survival and continuing vitality of Native American languages.

(b) **PURPOSES FOR WHICH GRANTS MAY BE USED.**—The purposes for which each grant awarded under subsection (a) may be used include, but are not limited to—

(1) the establishment and support of a community Native American language project to bring older and younger Native Americans together to facilitate and encourage the transfer of Native American language skills from one generation to another;

(2) the establishment of a project to train Native Americans to teach a Native American language to others or to enable them to serve as interpreters or translators of such language;

(3) the development, printing, and dissemination of materials to be used for the teaching and enhancement of a Native American language;

(4) the establishment or support of a project to train Native Americans to produce or participate in a television or radio program to be broadcast in a Native American language;

(5) the compilation, transcription, and analysis of oral testimony to record and preserve a Native American language; and

(6) the purchase of equipment (including audio and video recording equipment, computers, and software) required to conduct a Native American language project.

(c) **APPLICATIONS.**—For the purpose of making grants under subsection (a), the Secretary shall select applicants from among agencies and organizations described in such subsection on the basis of applications submitted to the Secretary at such time, in such form, and containing such information as the Secretary shall require, but each application shall include at a minimum—

(1) a detailed description of the current status of the Native American language to be addressed by the project for which a grant under subsection (a) is requested, including a description of existing programs and projects, if any, in support of such language;

(2) a detailed description of the project for which such grant is requested;

(3) a statement of objectives that are consonant with the purpose described in subsection (a);

(4) a detailed description of a plan to be carried out by the applicant to evaluate such project, consonant with the purpose for which such grant is made;

(5) if appropriate, an identification of opportunities for the replication of such project or the modification of such project for use by other Native Americans; and

(6) a plan for the preservation of the products of the Native American language project for the benefit of future generations of Native Americans and other interested persons.

(d) **PARTICIPATING ORGANIZATIONS.**—If a tribal organization or other eligible applicant decides that the objectives of its proposed Native American language project would be accomplished more effectively through a partnership arrangement with a school, college, or university, the applicant shall identify such school, college, or university as a participating organization in the application submitted under subsection (c).

(e) **LIMITATIONS ON FUNDING.**—

(1) **SHARE.**—Notwithstanding any other provision of this title, a grant made under subsection (a) may not be expended to pay more than 80 percent of the cost of the project that is assisted by such grant. Not less than 20 percent of such cost—

(A) shall be in cash or in kind, fairly evaluated, including plant, equipment, or services; and

(B)(i) may be provided from any private or non-Federal source; and

(ii) may include funds (including interest) distributed to a tribe—

(I) by the Federal Government pursuant to the satisfaction of a claim made under Federal law;

(II) from funds collected and administered by the Federal Government on behalf of such tribe or its constituent members; or

(III) by the Federal Government for general tribal administration or tribal development under a formula or subject to a tribal budgeting priority system, such as, but not limited to, funds involved in the settlement of land or other judgment claims, severance or other royalty payments, or payments under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or tribal budget priority system.

(2) **DURATION.**—The Secretary may make grants made under subsection (a) on a 1-year, 2-year, or 3-year basis.

(f) **ADMINISTRATION.**—(1) The Secretary shall carry out this section through the Administration for Native Americans.

(2)(A) Not later than 180 days after the effective date of this section, the Secretary shall appoint a panel of experts for the purpose of assisting the Secretary to review—

(i) applications submitted under subsection (a);

(ii) evaluations carried out to comply with subsection (c)(4);

and

(iii) the preservation of products required by subsection (c)(5).

(B) Such panel shall include, but not be limited to—

(i) a designee of the Institute of American Indian and Alaska Native Culture and Arts Development;

(ii) a designee of the regional centers funded under section 5135 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3215);

(iii) representatives of national, tribal, and regional organizations that focus on Native American language, or Native American cultural, research, development, or training; and

(iv) other individuals who are recognized for their expertise in the area of Native American language.

Recommendations for appointment to such panel shall be solicited from Indian tribes and tribal organizations.

(C) The duties of such panel include—

(i) making recommendations regarding the development and implementation of regulations, policies, procedures, and rules of general applicability with respect to the administration of this section;

(ii) reviewing applications received under subsection (c);

(iii) providing to the Secretary a list of recommendations for the approval of such applications—

(I) in accordance with regulations issued by the Secretary; and

(II) the relative need for the project; and

(iv) reviewing evaluations submitted to comply with subsection (c)(4).

(D)(i) Subject to clause (ii), a copy of the products of the Native American language project for which a grant is made under subsection (a)—

(I) shall be transmitted to the Institute of American Indian and Alaska Native Culture and Arts Development; and

(II) may be transmitted, in the discretion of the grantee, to national and regional repositories of similar material; for preservation and use consonant with their respective responsibilities under other Federal law.

(ii) Based on the Federal recognition of the sovereign authority of Indian tribes over all aspects of their cultures and language and except as provided in clause (iii), an Indian tribe may make a determination—

(I) not to transmit copies of such products under clause (i) or not to permit the redistribution of such copies; or

(II) to restrict in any manner the use or redistribution of such copies after transmission under such clause.

(iii) Clause (ii) shall not be construed to authorize Indian tribes—

(I) to limit the access of the Secretary to such products for purposes of administering this section or evaluating such products; or

(II) to sell such products, or copies of such products, for profit to the entities referred to in clause (i).

(42 U.S.C. 2991b-3)

#### TECHNICAL ASSISTANCE AND TRAINING

SEC. 804. The Commissioner shall provide, directly or through other arrangements—

(1) technical assistance to the public and private agencies in planning, developing, conducting, and administering projects under this title;

(2) short-term in-service training for specialized or other personnel that is needed in connection with projects receiving financial assistance under this title; and

(3) upon denial of a grant application, technical assistance to a potential grantee in revising a grant proposal.

(42 U.S.C. 2991c)

## RESEARCH, DEMONSTRATION, AND PILOT PROJECTS

SEC. 805. (a) The Commissioner may provide financial assistance through grants or contracts for research, demonstration, or pilot project conducted by public or private agencies which are designed to test or assist in the development of new approaches or methods that will aid in overcoming special problems or otherwise furthering the purposes of this title.

(b) The Commissioner shall establish an overall plan to govern the approval of research, demonstration, and pilot projects and the use of all research authority under this title. The plan shall set forth specific objectives to be achieved and priorities among such objectives.

(42 U.S.C. 2991d)

## PANEL REVIEW OF APPLICATIONS FOR ASSISTANCE

SEC. 806. (a)(1) The Commissioner shall establish a formal panel review process for purposes of—

(A) evaluating applications for financial assistance under sections 803 and 805; and

(B) determining the relative merits of the projects for which such assistance is requested.

(2) To implement the process established under paragraph (1), the Commissioner shall appoint members of review panels from among individuals who are not officers or employees of the Administration for Native Americans. In making appointments to such panels, the Commissioner shall give preference to American Indians, Native Hawaiians, and Alaskan<sup>1</sup> Natives.

(b) Each review panel appointed under subsection (a)(2) that reviews any application for financial assistance shall—

(1) determine the merit of each project described in such application;

(2) rank such application with respect to all other applications it reviews for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and

(3) submit to the Commissioner a list that identifies all applications reviewed by such panel and arranges such applications according to rank determined under paragraph (2).

(c) Upon the request of the chairman of the Select Committee on Indian Affairs of the Senate or of the chairman of the Committee on Education and Labor of the House of Representatives made with respect to any application for financial assistance under section 803 or 805, the Commissioner shall transmit to the chairman written notice—

(1) identifying such application;

(2) containing a copy of the list submitted to the Commissioner under subsection (b)(3) in which such application is ranked;

<sup>1</sup> Amendment made by section 822(21) of Public Law 102-375 cannot be executed because it inaccurately quotes matter to be stricken here. Should strike "Alaskan" and insert "Alaska".

(3) specifying which other applications ranked in such list have been approved by the Commissioner under sections 803 and 805; and

(4) if the Commissioner has not approved each application superior in merit, as indicated on such list, to the application with respect to which such notice is transmitted, containing a statement of the reasons relied upon by the Commissioner for—

(A) approving the application with respect to which such notice is transmitted; and

(B) failing to approve each pending application that is superior in merit, as indicated on such list, to the application described in subparagraph (A).

(42 U.S.C. 2991d-1)

#### ANNOUNCEMENT OF RESEARCH, DEMONSTRATION, OR PILOT PROJECTS

SEC. 807. (a) The Commissioner shall make a public announcement concerning—

(1) the title, purpose, intended completion date, identity of the grantee or contractor, and proposed cost of any grant or contract with a private or non-Federal public agency for a research, demonstration, or pilot project; and

(2) except in cases in which the Commissioner determines that it would not be consistent with the purposes of this title, the result, findings, data, or recommendations made or reported as a result of such activities.

(b) The public announcement required by subsection (a) shall be made within thirty days of making such grant or contracts, and the public announcements required by subsection (b) of this section shall be made within thirty days of the receipt of such results.

(42 U.S.C. 2991e)

#### SUBMISSION OF PLANS TO STATE AND LOCAL OFFICIALS

SEC. 808. (a) No financial assistance may be provided to any project under section 803 of this title or any research, demonstration, or pilot project under section 805 of this title, which is to be carried out on or in an Indian reservation or Alaska Native village, unless a plan setting forth the project has been submitted to the governing body of that reservation or village and the plan has not been disapproved by the governing body within thirty days of its submission.

(b) No financial assistance may be provided to any project under section 803 of this title or any research, demonstration, or pilot project under section 805 of this title, which is to be carried out in a State or Territory other than on or in an Indian reservation or Alaska Native village or Hawaiian Homestead, unless the Commissioner has notified the chief executive officer of the State or Territory of the decision of the Commissioner to provide that assistance.

(c) No financial assistance may be provided to any project under section 803 of this title or any research, demonstration, or pilot project under section 805 of this title, which is to be carried out in a city, county, or other major political subdivision of a State

or Territory, other than on or in an Indian reservation or Alaska Native village, or Hawaiian Homestead, unless the Commissioner has notified the local governing officials of the political subdivision of the decision of the Commissioner to provide that assistance.

(42 U.S.C. 2991f)

#### RECORDS AND AUDITS

SEC. 809. (a) Each agency which receives financial assistance under this title shall keep such records as the Commissioner may prescribe, including records which fully disclose the amount and disposition by that agency of such financial assistance, the total cost of the project in connection with which such financial assistance is given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Commissioner and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any agency which receives financial assistance under this title that are pertinent to the financial assistance received under this title.

(42 U.S.C. 2991g)

#### APPEALS, NOTICE, AND HEARING

SEC. 810. (a) The Commissioner shall prescribe procedures to assure that—

(1) financial assistance under this title shall not be suspended, except in emergency situations, unless the assisted agency has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(2) financial assistance under this title shall not be terminated, and application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the assisted agency has been afforded reasonable notice and opportunity for a full and fair hearing.

(b) If an application is rejected on the grounds that the applicant is ineligible or that activities proposed by the applicant are ineligible for funding, the applicant may appeal to the Secretary, not later than 30 days after the date of receipt of notification of such rejection, for a review of the grounds for such rejection. On appeal, if the Secretary finds that an applicant is eligible or that its proposed activities are eligible, such eligibility shall not be effective until the next cycle of grant proposals are considered by the Administration.

(42 U.S.C. 2991h)

#### EVALUATION

SEC. 811. (a)(1) The Commissioner shall provide, directly or through grants or contracts, for the evaluation of projects assisted under this title, including evaluations that describe and measure the impact of such projects, their effectiveness in achieving stated goals, their impact on related programs, and their structure and

mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such projects. Evaluations shall be conducted by persons not directly involved in the administration of the program or project evaluated.

(2) The projects assisted under this title shall be evaluated in accordance with this section not less frequently than at 3-year intervals.

(b) Prior to obligating funds for the programs and projects covered by this title with respect to fiscal year 1976, the Commissioner shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this title. The extent to which such standards have been met shall be considered in deciding whether to renew or supplement financial assistance authorized under this title.

(c) In carrying out evaluations under this title, the Commissioner may require agencies which receive assistance under this title to provide for independent evaluations.

(d) In carrying out evaluations under this title, the Commissioner shall, whenever feasible, arrange to obtain the specific views of persons participating in and served by programs and projects assisted under this title about such programs and projects.

(e) The Commissioner shall publish the results of evaluative research and summaries of evaluations of program and project impact and effectiveness not later than ninety days after the completion thereof. The Commissioner shall submit to the appropriate committees of the Congress copies of all such research studies and evaluation summaries.

(f) The Commissioner shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with assistance under this title shall become the property of the United States.

(42 U.S.C. 2992)

#### ANNUAL REPORT

SEC. 811A. The Secretary shall, not later than January 31 of each year, prepare and transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives an annual report on the social and economic conditions of American Indians, Native Hawaiians, other Native American Pacific Islanders (including American Samoan Natives), and Alaska Natives, together with such recommendations to Congress as the Secretary considers to be appropriate.

(42 U.S.C. 2992-1)

#### LABOR STANDARDS

SEC. 812. All laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting or decorating, of buildings or other facilities in connection with projects assisted under this title, shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Secretary of Labor shall have, with

respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, and section 2 of the Act of June 1, 1934.

(42 U.S.C. 2992a)

#### STAFF

**SEC. 812A.** In all personnel actions of the Administration, preference shall be given to individuals who are eligible for assistance under this title. Such preference shall be implemented in the same fashion as the preference given to veterans referred to in section 2108(3)(C) of title 5, United States Code. The Commissioner shall take such additional actions as may be necessary to promote recruitment of such individuals for employment in the Administration.

(42 U.S.C. 2992a-1)

#### ADMINISTRATION

**SEC. 813.** Nothing in this title shall be construed to prohibit interagency funding agreements made between the Administration and other agencies of the Federal Government for the development and implementation of specific grants or projects.

(42 U.S.C. 2992b)

#### ADDITIONAL REQUIREMENTS APPLICABLE TO RULEMAKING

**SEC. 814.** (a) Notwithstanding subsection (a) of section 553 of title 5, United States Code, and except as otherwise provided in this section, such section 553 shall apply with respect to the establishment and general operation of any program that provides loans, grants, benefits, or contracts authorized by this title.

(b)(1) Subparagraph (A) of the last sentence of section 553(b) of title 5, United States Code, shall not apply with respect to any interpretative rule or general statement of policy—

(A) proposed under this title; or

(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this title.

(2) Subparagraph (B) of the last sentence of section 553(b) of title 5, United States Code, shall not apply with respect to any rule (other than an interpretative rule or a general statement of policy)—

(A) proposed under this title; or

(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this title.

(3) The first 2 sentences of section 553(b) of title 5, United States Code, shall apply with respect to any rule (other than an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice) that is—

(A) proposed under this title; or

(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this title;

unless the Secretary for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in such rule) that notice and public procedure thereon are contrary to the public

interest or would impair the effective administration of any program, project, or activity with respect to which such rule is issued.

(c) Notwithstanding section 553(d) of title 5, United States Code, no rule (including an interpretative rule) or general statement of policy that—

(1) is issued to carry out this title; or

(2) applies exclusively to any program, project, or activity authorized by, or carried out under, this title;

may take effect until 30 days after the publication required under the first 2 sentences of section 553(b) of title 5, United States Code.

(d) Each rule (including an interpretative rule) and each general statement of policy to which this section applies shall contain after each of its sections, paragraphs, or similar textual units a citation to the particular provision of statutory or other law that is the legal authority for such section, paragraph, or unit.

(e) Except as provided in subsection (c), if as a result of the enactment of any law affecting the administration of this title it is necessary or appropriate for the Secretary to issue any rule (including any interpretative rule) or a general statement of policy, the Secretary shall issue such rule or such general statement of policy not later than 180 days after the date of the enactment of such law.

(f) Whenever an agency publishes in the Federal Register a rule (including an interpretative rule) or a general statement of policy to which subsection (c) applies, such agency shall transmit a copy of such rule or such general statement of policy to the Speaker of the House of Representatives and the President pro tempore of the Senate.

(42 U.S.C. 2992b-1)

#### DEFINITIONS

SEC. 815. As used in this title, the term—

(1) "financial assistance" includes assistance advanced by grant, agreement, or contract, but does not include the procurement of plant or equipment, or goods or services;

(2) "Indian reservation or Alaska Native village" includes the reservation of any federally or State recognized Indian tribe, including any band, nation, pueblo, or rancheria, any former reservation in Oklahoma, any community under the jurisdiction of an Indian tribe, including a band, nation, pueblo, or rancheria, with allotted lands or lands subject to a restriction against alienation imposed by the United States or a State, and any lands of or under the jurisdiction of an Alaska Native village or group, including any lands selected by Alaskan<sup>1</sup> Natives or Alaskan<sup>1</sup> Natives organizations under the Alaska Native Claims Settlement Act;

(3) "Native Hawaiian" means any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778;

<sup>1</sup> Amendment made by section 822(21) of Public Law 102-375 cannot be executed because it inaccurately quotes matter to be stricken here. Should strike "Alaskan" and insert "Alaska".

(4) the term "rule" has the meaning given it in section 551(4) of title 5, United States Code, as amended from time to time<sup>2</sup>

(5) "Secretary" means the Secretary of Health and Human Services; and

(6) the term "Native American Pacific Islander" means an individual who is indigenous to a United States territory or possession located in the Pacific Ocean, and includes such individual while residing in the United States.

(42 U.S.C. 2992c)

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 816. (a) There are authorized to be appropriated for the purpose of carrying out the provisions of this title (other than sections 803(d), 803A<sup>1</sup> 803C, 804, subsection (e) of this section, and any other provision of this title for which there is an express authorization of appropriations), such sums as may be necessary for fiscal years 1992, 1993, 1994, and 1995.

(b) Not less than 90 per centum of the funds made available to carry out the provisions of this title (other than sections 803(d), 803A<sup>1</sup> 803C, 804, subsection (e) of this section, and any other provision of this title for which there is an express authorization of appropriations) for a fiscal year shall be expended to carry out section 803(a) for such fiscal year.

(c) There are<sup>2</sup> authorized to be appropriated \$8,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, and 1996, for the purpose of carrying out the provisions of section 803(d).

(e)<sup>3</sup>(1) For fiscal years 1992 and 1993, there are authorized to be appropriated such sums as may be necessary for the purpose of—

(A) establishing demonstration projects to conduct research related to Native American studies and Indian policy development; and

(B) continuing the development of a detailed plan, based in part on the results of the projects, for the establishment of a National Center for Native American Studies and Indian Policy Development.

(2) Such a plan shall be delivered to the Congress not later than 30 days after the date of enactment of this subsection.

(f)<sup>4</sup> There are authorized to be appropriated to carry out section 803C, \$2,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, 1996, and 1997.

(42 U.S.C. 2992d)

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<sup>2</sup> Error in amendment made by section 9(b)(1) of Public Law 102-497. Should insert a semicolon.

<sup>1</sup> Error in amendment made by section 3(1) of Public Law 102-524. Should insert a comma.

<sup>2</sup> Should strike "are" and insert "is".

<sup>3</sup> Should be redesignated as subsection (d).

<sup>4</sup> Should be redesignated as (e).

## APPENDIX

### OLDER AMERICANS ACT AMENDMENTS OF 1987

[Public Law 100-175, November 29, 1987 (101 Stat. 926)]

## TITLE II—WHITE HOUSE CONFERENCE ON AGING

### SEC. 201. WHITE HOUSE CONFERENCE AUTHORIZED.

(a) FINDINGS.—The Congress finds that—

(1) the number of individuals 55 years of age or older was approximately 52,923,000 in 1990, and will, by the year 2040, be approximately 103,646,000,

(2) more than 1 of every 8 persons 55 years of age or older will be hospitalized during the next year,

(3) the out-of-pocket costs to older individuals for health care increased from 12.3 percent in 1977 to 18.2 percent in 1988,

(4) there is a great need to ensure access and the quality of affordable health care to all older individuals,

(5) the need for a comprehensive and responsive long-term care delivery system is great,

(6) the availability and cost of suitable housing, together with suitable services needed for independent or semi-independent living, still cause concern to older individuals,

(7) the ability to lead an independent or semi-independent life is contingent, in many cases, upon the availability of a comprehensive and effective social service system for older individuals,

(8) the availability and access to opportunities for continued productivity and employment is of great importance to middle-aged and older individuals who want or need to work,

(9) the fulfillment, dignity, and satisfaction of retirees still depend on the continuing development of a consistent national retirement policy,

(10) there is a continuing need to maintain and preserve the national policy with respect to increasing, coordinating, and expediting biomedical and other appropriate research directed at determining the causes and effects of the aging process,

(11) false stereotypes about aging and the process of aging continue to be prevalent throughout the United States and policies should be nurtured to overcome such stereotypes, and

(12) the talents and experience of older individuals represent a valuable community resource which should be developed and more widely shared within the local community.

(b) POLICY.—It is the policy of the Congress that—

(1) the Federal Government should work jointly with the States and their citizens to develop recommendations and plans for action to meet the challenges and needs of older individuals, consistent with the objectives of this section, and

(2) in developing programs for the aging pursuant to this section emphasis should be directed toward individual, private, and public initiatives and resources intended to enhance the economic security and self-sufficiency of elder Americans.

(42 U.S.C. 3001 note)

#### SEC. 202. AUTHORIZATION OF THE CONFERENCE.

(a) AUTHORITY TO CALL CONFERENCE.—Not later than December 31, 1994 the President shall convene the White House Conference on Aging in order to develop recommendations for additional research and action in the field of aging which will further the policy set forth in subsection (b).

(b) PLANNING AND DIRECTION.—The Conference shall be planned and conducted under the direction of the Secretary in cooperation with the Commissioner on Aging and the Director of the National Institute on Aging, and the heads of such other Federal departments and agencies as are appropriate. Such assistance may include the assignment of personnel.

(c) PURPOSE OF THE CONFERENCE.—The purpose of the Conference shall be—

(1) to increase the public awareness of the interdependence of generations and the essential contributions of older individuals to society for the well-being of all generations;

(2) to identify the problems facing older individuals and the commonalities of the problems with problems of younger generations;

(3) to examine the well-being of older individuals, including the impact the wellness of older individuals has on our aging society;

(4) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and improving the well-being of the aging;

(5) to develop recommendations for the coordination of Federal policy with State and local needs and the implementation of such recommendations; and

(6) to review the status and multigenerational value of recommendations adopted at previous White House Conferences on Aging.

(d) CONFERENCE PARTICIPANTS AND DELEGATES.—

(1) PARTICIPANTS.—In order to carry out the purposes of this section, the Conference shall bring together—

(A) representatives of Federal, State, and local governments,

(B) professional and lay people who are working in the field of aging, and

(C) representatives of the general public, particularly older individuals.

(2) **SELECTION OF DELEGATES.**—The delegates shall be selected without regard to political affiliation or past partisan activity and shall, to the best of the appointing authority's ability, be representative of the spectrum of thought in the field of aging. Delegates shall include individuals who are professionals, individuals who are nonprofessionals, minority individuals, and individuals from low-income families.

(42 U.S.C. 3001 note)

#### **SEC. 203. CONFERENCE ADMINISTRATION.**

(a) **ADMINISTRATION.**—In administering this section, the Secretary shall—

(1) provide written notice to all members of the Policy Committee of each meeting, hearing, or working session of the Policy Committee not later than 48 hours before the occurrence of such meeting, hearing, or working session,

(2) request the cooperation and assistance of the heads of such other Federal departments and agencies as may be appropriate in the carrying out of this section,

(3) furnish all reasonable assistance, including financial assistance, to State agencies on the aging and to area agencies on the aging, and to other appropriate organizations (including organizations representing older Indians), to enable them to organize and conduct conferences in conjunction with the Conference,

(4) make available for public comment a proposed agenda, prepared by the Policy Committee, for the Conference which will reflect to the greatest extent possible the major issues facing older individuals consistent with the provisions of subsection (a),

(5) prepare and make available background materials for the use of delegates to the Conference which the Secretary deems necessary, and

(6) engage such additional personnel as may be necessary to carry out the provisions of this section without regard to provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) **DUTIES.**—The Secretary shall, in carrying out the Secretary's responsibilities and functions under this section, and as part of the White House Conference on Aging, ensure that—

(1) the conferences under subsection (a)(2) shall—

(A) include a conference on older Indians to identify conditions that adversely affect older Indians, to propose solutions to ameliorate such conditions, and to provide for the exchange of information relating to the delivery of services to older Indians, and

(B) be so conducted as to assure broad participation of older individuals,

(2) the agenda prepared under subsection (a)(4) for the Conference is published in the Federal Register not later than

30 days after such agenda is approved by the Policy Committee, and the Secretary may republish such agenda together with the recommendations of the Secretary regarding such agenda,

(3) the personnel engaged under subsection (a)(5) shall be fairly balanced in terms of points of views represented and shall be appointed without regard to political affiliation or previous partisan activities,

(4) the recommendations of the Conference are not inappropriately influenced by any appointing authority or by any special interest, but will instead be the result of the independent judgment of the Conference, and

(5) current and adequate statistical data, including decennial census data, and other information on the well-being of older individuals in the United States are readily available, in advance of the Conference, to the delegates of the Conference, together with such information as may be necessary to evaluate Federal programs and policies relating to aging. In carrying out this subparagraph, the Secretary is authorized to make grants to, and enter into cooperative agreements with, public agencies and nonprofit private organizations.

(c) GIFTS.—The Secretary may accept, on behalf of the United States, gifts (in cash or in kind, including voluntary and uncompensated services), which shall be available to carry out this title. Gifts of cash shall be available in addition to amounts appropriated to carry out this title.

(d) RECORDS.—The Secretary shall maintain records regarding—

(1) the sources, amounts, and uses of gifts accepted under subsection (c); and

(2) the identity of each person receiving assistance to carry out this title, and the amount of such assistance received by each such person.

(42 U.S.C. 3001 note)

#### **SEC. 204. POLICY COMMITTEE; RELATED COMMITTEES.**

(a) POLICY COMMITTEE.—

(1) ESTABLISHMENT.—There is established a Policy Committee comprised of 25 members to be selected, not later than 90 days after the enactment of the Older Americans Act Amendments of 1992, as follows:

(A) PRESIDENTIAL APPOINTEES.—Thirteen members shall be selected by the President and shall include—

(i) 3 members who are officers or employees of the United States; and

(ii) 10 members with experience in the field of aging, who may include representatives of public aging agencies, institution-based organizations, and minority aging organizations.

(B) HOUSE APPOINTEES.—Four members shall be selected by the Speaker of the House of Representatives, after consultation with the Minority Leader of the House of Representatives, and shall include members of the Committee on Education and Labor of the House of Represent-

atives, the Committee on Ways and Means of the House of Representatives, and the Select Committee on Aging of the House of Representatives. Not more than 3 members selected under this subparagraph may be associated or affiliated with the same political party.

(C) SENATE APPOINTEES.—Four members shall be selected by the Majority Leader of the Senate, after consultation with the Minority Leader of the Senate, and shall include members of the Committee on Labor and Human Resources of the Senate, the Committee on Finance of the Senate, and the Special Committee on Aging of the Senate. Not more than 3 members selected under this subparagraph may be associated or affiliated with the same political party.

(D) JOINT APPOINTEES.—Four members shall be selected jointly by the Speaker of the House of Representatives and the Majority Leader of the Senate, after consultation with the minority leaders of the House and Senate, and shall include representatives with experience in the field of aging, who may include representatives described in subsection (a)(1)(A)(ii). Not more than 2 members selected under this subparagraph may be associated or affiliated with the same political party.

(2) DUTIES OF THE POLICY COMMITTEE.—The Policy Committee shall initially meet at the call of the Secretary, but not later than 30 days after the last member is selected under subsection (a). Subsequent meetings of the Policy Committee shall be held at the call of the chairperson of the Policy Committee. Through meetings, hearings, and working sessions, the Policy Committee shall—

(A) make recommendations to the Secretary to facilitate the timely convening of the Conference;

(B) formulate and approve a proposed agenda for the Conference not later than 60 days after the first meeting of the Policy Committee;

(C) make recommendations for participants and delegates of the Conference;

(D) establish the number of delegates to be selected under section 202(d)(2); and

(E) formulate and approve the initial report of the Conference in accordance with section 205.

(3) QUORUM; COMMITTEE VOTING; CHAIRPERSON.—

(A) QUORUM.—Thirteen members shall constitute a quorum for the purpose of conducting the business of the Policy Committee, except that 17 members shall constitute a quorum for purposes of approving the agenda required by paragraph (2)(B) and the report required by paragraph (2)(E).

(B) VOTING.—The Policy Committee shall act by the vote of the majority of the members present.

(C) CHAIRPERSON.—The President shall select a chairperson from among the members of the Policy Committee. The chairperson may vote only to break a tie vote of the other members of the Policy Committee.

**(b) ADVISORY AND OTHER COMMITTEES.—**

(1) **IN GENERAL.**—The President shall establish an advisory committee to the Conference which shall include representation from the Federal Council on Aging and other public agencies and private nonprofit organizations as appropriate. The President shall consider for appointment to the advisory committee individuals recommended by the Policy Committee.

(2)<sup>1</sup> **OTHER COMMITTEES.**—The Secretary may establish such other committees, including technical committees, as may be necessary to assist in the planning, conducting, and reviewing of the Conference.

(c) **COMPOSITION OF COMMITTEES.**—Each committee established under subsection (b) shall be composed of professionals and public members, and shall include individuals from low-income families and from minority groups. A majority of the public members of each such committee shall be 55 years of age or older, and individuals who are Native Americans.

(d) **COMPENSATION.**—Appointed members of any such committee (other than any officers or employees of the Federal Government), while attending conferences or meetings of the committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not to exceed the daily prescribed rate for GS-18 under section 5332 of title 5, United States Code (including travel time). While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of such title for persons employed intermittently in Federal Government service.

(42 U.S.C. 3001 note)

**SEC. 205. REPORT OF THE CONFERENCE.**

(a) **PROPOSED REPORT.**—A proposed report of the Conference, which shall include a statement of comprehensive coherent national policy on aging together with recommendations for the implementation of the policy, shall be published and submitted to the chief executive officers of the States not later than 90 days following the date on which the Conference is adjourned. The findings and recommendations included in the published proposed report shall be immediately available to the public.

(b) **RESPONSE TO PROPOSED REPORT.**—The chief executive officers of the States, after reviewing and soliciting recommendations and comments on the report of the Conference, shall submit to the Policy Committee, not later than 90 days after receiving the report, their views and findings on the recommendations of the Conference.

**(c) REPORTS.—**

(1) **INITIAL REPORT.**—The Policy Committee shall, after reviewing the views and recommendations of the chief executive officers of the States, prepare and approve an initial report of the Conference, which shall include a compilation of the actions of the chief executive officers of the States and take into consideration the views and findings of such officers.

<sup>1</sup>Indentation error in amendment made by section 834(2) of Public Law 102-375. Should amend so as to align the left margin of this paragraph with the left margin of paragraph (1).

(2) Not later than 60 days after such initial report is transmitted by the Policy Committee, the Secretary shall publish such initial report in the Federal Register. The Secretary may republish a final report together with such additional views and recommendations as the Secretary considers to be appropriate.

(d) **RECOMMENDATIONS OF POLICY COMMITTEE.**—The Policy Committee shall, within 90 days after submission of the views of the chief executive officers of the States, publish and transmit to the President and to the Congress recommendations for the administrative action and the legislation necessary to implement the recommendations contained within the report.

(42 U.S.C. 3001 note)

#### **SEC. 206. DEFINITIONS.**

For the purposes of this title—

(1) the term “area agency on aging” has the meaning given the term in section 102(17) of the Older Americans Act of 1965 (42 U.S.C. 3002(17)),

(2) the term “State agency on aging” means the State agency designated under section 305(a)(1) of the Act,

(3) the term “Secretary” means the Secretary of Health and Human Services,

(4) the term “Conference” means the White House Conference on Aging, and

(5) the term “State” means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands.

(42 U.S.C. 3001 note)

#### **SEC. 207. AUTHORIZATION OF APPROPRIATIONS.**

(a) **AUTHORIZATION.**—

(1) **IN GENERAL.**—There are authorized to be appropriated such sums as may be necessary for fiscal years 1992 through 1994 to carry out this title.

(2) **CONTRACTS.**—Authority to enter into contracts under this title shall be effective only to the extent, or in such amounts as are, provided in advance in appropriations Acts.

(b) **AVAILABILITY OF FUNDS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (3), funds appropriated to carry out this title and funds received as gifts under section 203(c) shall remain available for obligation or expenditure until June 30, 1995, or the expiration of the one-year period beginning on the date the Conference adjourns, whichever occurs earlier.

(2) **UNOBLIGATED FUNDS.**—Except as provided in paragraph (3), any such funds neither expended nor obligated before June 30, 1995, or the expiration of the one-year period beginning on the date the Conference adjourns, whichever occurs earlier, shall be available to carry out the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

(3) **CONFERENCE NOT CONVENED.**—If the Conference is not convened before June 30, 1994, such funds neither expended

# OLDER AMERICANS ACT AMENDMENTS OF 1992

[Public Law 102-375, September 30, 1992 (106 Stat. 1195)]

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## TITLE II—ADMINISTRATION

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### SEC. 212. STUDY ON BOARD AND CARE FACILITY QUALITY.

(a) **ARRANGEMENT FOR STUDY COMMITTEE.**—The Secretary of Health and Human Services shall enter into an arrangement, in accordance with subsection (d), to establish a study committee described in subsection (c) to conduct a study through the Institute of Medicine of the National Academy of Sciences on the quality of board and care facilities for older individuals (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)) and the disabled.

(b) **SCOPE OF STUDY.**—The study shall include—

(1) an examination of existing quality, health, and safety requirements for board and care facilities and the enforcement of such requirements for their adequacy and effectiveness, with special attention to their effectiveness in promoting good personal care;

(2) an examination of, and recommendations with respect to, the appropriate role of Federal, State, and local governments in assuring the health and safety of residents of board and care facilities; and

(3) specific recommendations to the Congress and the Secretary, by not later than 20 months after the date of the enactment of this Act, concerning the establishment of minimum national standards for the quality, health, and safety of residents of such facilities and the enforcement of such standards.

(c) **COMPOSITION OF STUDY COMMITTEE.**—The study committee shall be composed of members as appointed from among the following:

(1) **NATIONAL ACADEMY OF SCIENCES.**—The members of the National Academy of Sciences with experience in long-term care. The members so appointed shall include—

(A) physicians;

(B) experts on the administration of drugs to older individuals, and disabled individuals receiving long-term care services; and

(C) experts on the enforcement of life-safety codes in long-term care facilities.

(2) **RESIDENTS.**—Residents of board and care facilities (including privately owned board and care facilities), and rep-

representatives of such residents or of organizations that advocate on behalf of such residents. Members so appointed shall include—

- (A) residents of a nonprofit board and care facility; or
- (B) individuals who represent—

- (i) residents of nonprofit board and care facilities;

or

- (ii) organizations that advocate on behalf of residents of nonprofit board and care facilities.

(3) OPERATORS.—Operators of board and care facilities (including privately owned board and care facilities), and individuals who represent such operators or organizations that represent the interests of such operators. Members so appointed shall include—

- (A) operators of a nonprofit board and care facility; or
- (B) individuals who represent—

- (i) operators of nonprofit board and care facilities;

or

- (ii) organizations that represent the interests of operators of nonprofit board and care facilities.

(4) OFFICERS.—

(A) STATE OFFICERS.—Elected and appointed State officers who have responsibility relating to the health and safety of residents of board and care facilities.

(B) REPRESENTATIVES.—Representatives of such officers or of organizations representing such officers.

(C) OTHER INDIVIDUALS.—Other individuals with relevant expertise.

(d) USE OF INSTITUTE OF MEDICINE.—The Secretary shall request the National Academy of Sciences, through the Institute of Medicine, to establish, appoint, and provide administrative support for the study committee under an arrangement under which the actual expenses incurred by the Academy in carrying out such functions will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such arrangement with the Academy.

(e) INVOLVEMENT OF OTHERS.—

(1) GOVERNMENT OFFICIALS.—The study committee shall conduct its work in a manner that provides for the consultation with Members of Congress or their representatives, officials of the Department of Health and Human Services, and officials of State and local governments who are not members of the study committee.

(2) EXPERTS.—The study committee may consult with any individual or organization with expertise relating to the issues involved in the activities of the study committee.

(f) REPORT.—Not later than 20 months after an arrangement is entered into under subsection (d), the study committee shall submit, to the Secretary, the Speaker of the House of Representatives, and the President pro tempore of the Senate, a report containing the results of the study referred to in subsection (a) and the recommendations made under subsection (b).

(g) **BOARD AND CARE FACILITY DEFINED.**—In this section, the term “board and care facility” means a facility described in section 1616(e) of the Social Security Act (42 U.S.C. 1372e(e)).

(h) **AUTHORIZATION.**—There are authorized to be appropriated to carry out this section \$1,500,000 for fiscal year 1992 and such sums as may be necessary for subsequent fiscal years.

**SEC. 213. STUDY ON HOME CARE QUALITY.**

(a) **ESTABLISHMENT STUDY OF<sup>1</sup> COMMITTEE.**—The Secretary of Health and Human Services shall enter into an arrangement, in accordance with subsection (d), to establish a study committee described in subsection (c) to conduct a study through the Institute of Medicine of the National Academy of Sciences on the quality of home care services for older individuals and disabled individuals.

(b) **SCOPE OF STUDY.**—The study shall include—

(1) an examination of existing quality, health and safety requirements for home care services and the enforcement of such requirements for their adequacy, effectiveness, and appropriateness;

(2) an examination of, and recommendations with respect to, the appropriate role of Federal, State, and local governments in ensuring the health and safety of patients and clients of home care services; and

(3) specific recommendations to the Congress and the Secretary, not later than 20 months after the date of the enactment of this Act, concerning the establishment of minimum national standards for the quality, health, and safety of patients and clients of such services and the enforcement of such standards.

(c) **COMPOSITION OF STUDY COMMITTEE.**—The study committee shall be composed of members appointed from among—

(1) individuals with experience in long-term care, including nonmedical home care services;

(2) patients and clients of home care services (including privately provided home care services and services funded under the Older Americans Act of 1965) or individuals who represent such patients and clients or organizations that advocate on behalf of such patients and clients;

(3) providers of home care services (including privately provided home care services and services funded under the Older Americans Act of 1965) or individuals who represent such providers or organizations that advocate on behalf of such providers;

(4) elected and appointed State officers who have responsibility relating to the health and safety of patients and clients of home care services, or representatives of such officers or of organizations representing such officers; and

(5) other individuals with relevant expertise.

(d) **USE OF INSTITUTE OF MEDICINE.**—The Secretary shall request the National Academy of Sciences, through the Institute of Medicine, to establish, appoint, and provide administrative support for the committee under an arrangement under which the actual expenses incurred by the Academy in carrying out such functions

<sup>1</sup> So in Original. Should strike “STUDY OF” and insert “OF STUDY”.

will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such arrangement with the Academy.

(e) INVOLVEMENT OF OTHERS.—

(1) MEMBERS AND OFFICIALS.—The committee shall conduct its work in a manner that provides for consultation with Members of Congress or their representatives, officials of the Department of Health and Human Services, and officials of State and local governments who are not members of the committee.

(2) INDIVIDUAL OR ORGANIZATION WITH EXPERTISE.—The committee may consult with any individual or organization with expertise relating to the issues involved in the activities of the committee.

(f) REPORT.—Not later than 20 months after an arrangement is entered into under subsection (d), the committee shall submit, to the Secretary, the Speaker of the House of Representatives, and the President pro tempore of the Senate, a report containing the results of the study referred to in subsection (a).

(g) AUTHORIZATION.—There are authorized to be appropriated to carry out this section \$1,000,000 for fiscal year 1992 and such sums as may be necessary for subsequent fiscal years.



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