

## 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 “Assistant Secretary” means the Assistant Secretary for Aging.

(3) The term “State” means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Commonwealth of the Northern Mariana 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 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 disabil-

ities”, “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 “disease prevention and health promotion services” means—

(A) health risk assessments;

(B) routine health screening, which may include hypertension, glaucoma, cholesterol, cancer, vision, hearing, diabetes, bone density, and nutrition screening;

(C) nutritional counseling and educational services for individuals and their primary caregivers;

(D) health promotion programs, including but not limited to programs relating to prevention and reduction of effects of chronic disabling conditions (including osteoporosis and cardiovascular disease), alcohol and substance abuse reduction, smoking cessation, weight loss and control, and stress management;

(E) programs regarding physical fitness, group exercise, and music therapy, art therapy, and dance-movement therapy, including programs for multigenerational participation that are provided by—

(i) an institution of higher education;

(ii) a local educational agency, as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801); or

(iii) a community-based organization;

(F) 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;

(G) screening for the prevention of depression, coordination of community mental health services, provision of educational activities, and referral to psychiatric and psychological services;

(H) 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.);

(I) medication management screening and education to prevent incorrect medication and adverse drug reactions;

(J) information concerning diagnosis, prevention, treatment, and rehabilitation concerning age-related diseases and chronic disabling conditions, including osteoporosis, cardiovascular diseases, diabetes, and Alzheimer's disease and related disorders with neurological and organic brain dysfunction;

(K) gerontological counseling; and

(L) counseling regarding social services and followup health services based on any of the services described in subparagraphs (A) through (K).

The term shall not include services for which payment may be made under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq., 1396 et seq.).

(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 "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)).

(19) The term "in-home services" includes—

(A) services of homemakers and home health aides;

(B) visiting and telephone reassurance;

(C) chore maintenance;

(D) in-home respite care for families, and adult day care as a respite service for families;

(E) minor modification of homes that is necessary to facilitate the ability of older individuals to remain at home and that is not available under another program (other than a program carried out under this Act);

(F) personal care services; and

(G) other in-home services as defined—

(i) by the State agency in the State plan submitted in accordance with section 307; and

(ii) by the area agency on aging in the area plan submitted in accordance with section 306.

(20) The term “Native American” means—

(A) an Indian as defined in paragraph (5); and

(B) a Native Hawaiian, as defined in section 625.

(21) 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.

(22) The term “elder abuse” means abuse of an older individual.

(23) The term “elder abuse, neglect, and exploitation” means abuse, neglect, and exploitation, of an older individual.

(24) 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.

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

(26) 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.

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

(28) 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.

(29) 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 individuals, 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.

(30) The term “institution of higher education” has the meaning given the term in section 101 of the Higher Education Act of 1965.

(31) 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.

(32) 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)<sup>1</sup> 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).

(33) 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.

(34) 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.

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

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

(37) 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).

(38) 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)).

(39) 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

<sup>1</sup>Section 801(a) of the Older Americans Act Amendments of 2000 (P.L. 106-501; 114 Stat. 2291) amends paragraph (34)(C), by striking “307(a)(12)” and inserting “307(a)(9)”. The amendment could not be executed due to an earlier amendment made by section 101(5) (114 Stat. 2229) which redesignates paragraph (34) as paragraph (32).

of a physical or mental incapacity, any funds owed to such individual by such entity.

(40) The term “State agency” means the agency designated under section 305(a)(1).

(41) The term “supportive service” means a service described in section 321(a).

(42) The term “family violence” has the same meaning given the term in the Family Violence Prevention and Services Act (42 U.S.C. 10408).

(43) The term “sexual assault” has the meaning given the term in section 2003 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg-2).

(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 an Assistant Secretary for 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 Assistant Secretary and the Secretary. In the performance of the functions of the Assistant Secretary, the Assistant Secretary shall be directly responsible to the Secretary. The Secretary shall not approve or require any delegation of the functions of the Assistant Secretary (including the functions of the Assistant Secretary carried out through regional offices) to any other officer not directly responsible to the Assistant Secretary.

(b) The Assistant Secretary 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 a Director of the Office for American Indian, Alaskan Native, and Native Hawaiian Aging appointed by the Assistant Secretary.

(3) The Director of the Office for 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 Assistant Secretary 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 Assistant Secretary;

(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



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 Assistant Secretary 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 Assistant Secretary and programs established under title VI by the Assistant Secretary;

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 a Director of the Office of Long-Term Care Ombudsman Programs (in this subsection referred to as the "Director") who shall be appointed by the Assistant Secretary from among individuals who have expertise and background in the fields of long-term care advocacy and management. The Director shall report directly to the Assistant Secretary.

(B) No individual shall be appointed Director 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 Director 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 Assistant Secretary 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 Assistant Secretary 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)(9) and section 712, including provision of service to residents of board and care facilities and of similar adult care facilities;
  - (D) keep the Assistant Secretary 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 Assistant Secretary regarding, existing and proposed Federal legislation, regulations, and policies regarding the operation of State Long-Term Care Ombudsman programs;
  - (F) make recommendations to the Assistant Secretary 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 Assistant Secretary 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)(9) 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 ASSISTANT SECRETARY

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

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

(11) 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;

(12) 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;

(13) 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;

(14) 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;

(15) consult with national organizations representing minority individuals to develop and disseminate training packages and to provide technical assistance efforts designed to assist State and area agencies on aging, and service providers, 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 and older individuals residing in rural areas;

(16) 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)<sup>1</sup>;

(17) 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;

(18)(A) establish and operate the National Ombudsman Resource Center (in this paragraph referred to as the “Center”), under the administration of the Director of the Office of Long-Term Care 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; 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 2000;

(19) 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;

(20) 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

<sup>1</sup>Section 801(b)(2)(A)(i) of the Older Americans Act Amendments of 2000 (P.L. 106-501; 114 Stat. 2292) amends paragraph (19)(C) by striking “paragraphs (2) and (5)(A) of section 306(a)” and inserting “paragraphs (2) and (4)(A) of section 306(a)”. The amendment could not be executed due to an earlier amendment made by section 201(1)(B) which redesignated paragraph (19) as paragraph (16).

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;

(21) establish information and assistance services as priority services for older individuals, and develop and operate, either directly or through contracts, grants, or cooperative agreements, a National Eldercare Locator Service, providing information and assistance services through a nationwide toll-free number to identify community resources for older individuals;

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

(23) 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)<sup>1</sup>;

(24) establish and carry out pension counseling and information programs described in section 215;

(25) 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;

(26) 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

(27) improve the delivery of services to older individuals living in rural areas through—

(A) synthesizing results of research on how best to meet the service needs of older individuals in rural areas;

(B) developing a resource guide on best practices for States, area agencies on aging, and service providers;

(C) providing training and technical assistance to States to implement these best practices of service delivery; and

(D) submitting a report on the States' experiences in implementing these best practices and the effect these innovations are having on improving service delivery in rural areas to the relevant committees not later than 36 months after enactment.

<sup>1</sup>Section 801(b)(2)(A)(ii) of the Older Americans Act Amendments of 2000 (P.L. 106-501; 114 Stat. 2292) amends paragraph (26), by striking "sections 307(a)(18) and 731(b)(2)" and inserting "section 307(a)(13) and section 731". The amendment could not be executed due to an earlier amendment made by section 201(1)(B) which redesignated paragraph (26) as paragraph (23).

(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 Assistant Secretary 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) 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 Assistant Secretary, in consultation with the Corporation for National and Community Service, 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.

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

(2) In operating the Center, the Assistant Secretary 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 Assistant Secretary shall carry out paragraph (2) through grants or contracts.

(B) The Assistant Secretary 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 Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require.

(C) The Assistant Secretary 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 Assistant Secretary establishes such priorities, publish in the Federal Register for public comment a statement of such proposed priorities.

(4) The Assistant Secretary 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 2000.

(e)(1)(A) The Assistant Secretary 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)<sup>1</sup> provide information about grants and projects under title IV;

(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 Director of the Office for American Indian, Alaskan Native, and Native Hawaiian Aging;

(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;<sup>1</sup>

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

<sup>1</sup>Margin error in the amendment made by section 801(b)(2)(C)(i) of the Older Americans Act Amendments of 2000 (P.L. 106-501; 114 Stat. 2292).

<sup>1</sup>Error in amendment made by section 202(f) of Public Law 102-375. Should strike the semicolon and insert a period.



(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 Assistant Secretary 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 information beyond the term of the grant awarded, or contract entered into, to carry out the project or activity.

(B) The Assistant Secretary 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.

(f)(1) The Assistant Secretary, in accordance with the process described in paragraph (2), and in collaboration with a representative group of State agencies, tribal organizations, area agencies on aging, and providers of services involved in the performance outcome measures shall develop and publish by December 31, 2001, a set of performance outcome measures for planning, managing, and evaluating activities performed and services provided under this Act. To the maximum extent possible, the Assistant Secretary shall use data currently collected (as of the date of development of the measures) by State agencies, area agencies on aging, and service providers through the National Aging Program Information System and other applicable sources of information in developing such measures.

(2) The process for developing the performance outcome measures described in paragraph (1) shall include—

(A) a review of such measures currently in use by State agencies and area agencies on aging (as of the date of the review);

(B) development of a proposed set of such measures that provides information about the major activities performed and services provided under this Act;

(C) pilot testing of the proposed set of such measures, including an identification of resource, infrastructure, and data collection issues at the State and local levels; and

(D) evaluation of the pilot test and recommendations for modification of the proposed set of such measures.

(42 U.S.C. 3012)

#### FEDERAL AGENCY CONSULTATION

SEC. 203. (a)(1) The Assistant Secretary, 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 Assistant Secretary shall coordinate, advise, consult, and cooperate with the Secretary of Labor in carrying out title V and with the Corporation for National and Community Service 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 Assistant Secretary 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 Assistant Secretary in carrying out such program. In particular, the Secretary of Labor shall consult and cooperate with the Assistant Secretary in carrying out the Job Training Partnership Act and <sup>1</sup> title I of the Workforce Investment Act of 1998.

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

(A) older individuals (with particular attention to low-income minority older individuals and older individuals residing in rural areas) 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 or title I of the Workforce Investment Act of 1998,<sup>1</sup>

(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 and Family Literacy 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,

<sup>1</sup> Effective July 1, 2000, strike “the Job Training Partnership Act and”.

<sup>1</sup> Effective July 1, 2000, amend paragraph (1) to read as follows:

“(1) title I of the Workforce Investment Act of 1998.”.

(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 Assistance and Bill of Rights Act of 2000, 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 Assistant Secretary 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)

**SEC. 204. GIFTS AND DONATIONS.**

(a) **GIFTS AND DONATIONS.**—The Assistant Secretary may accept, use, and dispose of, on behalf of the United States, gifts or donations (in cash or in kind, including voluntary and uncompensated services or property), which shall be available until expended for the purposes specified in subsection (b). Gifts of cash and proceeds of the sale of property shall be available in addition to amounts appropriated to carry out this Act.

(b) **USE OF GIFTS AND DONATIONS.**—Gifts and donations accepted pursuant to subsection (a) may be used either directly, or for grants to or contracts with public or nonprofit private entities, for the following activities:

(1) The design and implementation of demonstrations of innovative ideas and best practices in programs and services for older individuals.

(2) The planning and conduct of conferences for the purpose of exchanging information, among concerned individuals and public and private entities and organizations, relating to programs and services provided under this Act and other programs and services for older individuals.

(3) The development, publication, and dissemination of informational materials (in print, visual, electronic, or other media) relating to the programs and services provided under this Act and other matters of concern to older individuals.

(c) **ETHICS GUIDELINES.**—The Assistant Secretary shall establish written guidelines setting forth the criteria to be used in determining whether a gift or donation should be declined under this section because the acceptance of the gift or donation would—

(1) reflect unfavorably upon the ability of the Administration, the Department of Health and Human Services, or any

employee of the Administration or Department, to carry out responsibilities or official duties under this Act in a fair and objective manner; or

(2) compromise the integrity or the appearance of integrity of programs or services provided under this Act or of any official involved in those programs or services.

(42 U.S.C. 3015)

ADMINISTRATION OF THE ACT

SEC. 205. (a)(1) In carrying out the objectives of this Act, the Assistant Secretary 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 Assistant Secretary 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 and 2 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 Assistant Secretary 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 Assistant Secretary 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) 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 older individuals residing in rural areas) and unserved older individuals with greatest social need (including low-income minority individuals and older individuals residing in rural areas), 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, older individuals residing in rural areas 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) 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 Assistant Secretary 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) 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, older individuals residing in rural areas, low-income individuals, and frail individuals (including individuals with any physical or mental functional impairment); and

(4) 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 Assistant Secretary 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 Assistant Secretary shall submit the report required by paragraph (1) to—

- (A) the Special Committee on Aging of the Senate;
- (B) the Committee on Education and Labor of the House of Representatives; and
- (C) the Committee on Labor and Human Resources of the Senate.

(3) The Assistant Secretary 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 Assistant Secretary 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 Assistant Secretary deems appropriate. In carrying out this subsection, the Assistant Secretary shall consider—

- (1) the number of older individuals reached through the activities;
- (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 residing in rural areas) and older individuals with greatest social need (including low-income minority individuals and older individuals residing in rural areas) 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

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

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 Assistant Secretary, 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 Assistant Secretary shall request only such information as the Assistant Secretary 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 Director of the Office for American Indian, Alaskan Native, and Native Hawaiian Aging and the approval of the Assistant Secretary), 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 Assistant Secretary and the Secretary of Agriculture may provide technical assistance and appropriate material to agencies carrying out nutrition education programs in accordance with section 339(2)(J).

(42 U.S.C. 3020e)

#### **SEC. 215. PENSION COUNSELING AND INFORMATION PROGRAMS.**

(a) **DEFINITIONS.**—In this section:

(1) **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) employee pension benefit plans as defined in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)).

(2) **PENSION COUNSELING AND INFORMATION PROGRAM.**—The term “pension counseling and information program” means a program described in subsection (b).

(b) **PROGRAM AUTHORIZED.**—The Assistant Secretary shall award grants to eligible entities to establish and carry out pension counseling and information programs that create or continue a sufficient number of pension assistance and counseling programs to provide outreach, information, counseling, referral, and other assistance regarding pension and other retirement benefits, and rights related to such benefits, to individuals in the United States.

(c) ELIGIBLE ENTITIES.—The Assistant Secretary shall award grants under this section to—

- (1) State agencies or area agencies on aging; and
- (2) nonprofit organizations with a proven record of providing—
  - (A) services related to retirement of older individuals;
  - (B) services to Native Americans; or
  - (C) specific pension counseling.

(d) CITIZEN ADVISORY PANEL.—The Assistant Secretary shall establish a citizen advisory panel to advise the Assistant Secretary regarding which entities should receive grant awards under this section. Such panel shall include representatives of business, labor, national senior advocates, and national pension rights advocates. The Assistant Secretary shall consult such panel prior to awarding grants under this section.

(e) APPLICATION.—To be eligible to receive a grant under this section, an entity shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require, including—

- (1) a plan to establish a pension counseling and information program that—
  - (A) establishes or continues a State or area pension counseling and information program;
  - (B) serves a specific geographic area;
  - (C) provides counseling (including direct counseling and assistance to individuals who need information regarding pension and other retirement benefits) and information that may assist individuals in obtaining, or establishing rights to, and filing claims or complaints regarding, pension and other retirement benefits;
  - (D) provides information on sources of pension and other retirement benefits;
  - (E) establishes a system to make referrals for legal services and other advocacy programs;
  - (F) establishes a system of referral to Federal, State, and local departments or agencies related to pension and other retirement benefits;
  - (G) provides a sufficient number of staff positions (including volunteer positions) to ensure information, counseling, referral, and assistance regarding pension and other retirement benefits;
  - (H) provides training programs for staff members, including volunteer staff members, of pension and other retirement benefits programs;
  - (I) makes recommendations to the Administration, the Department of Labor and other Federal, State, and local agencies concerning issues for older individuals related to pension and other retirement benefits; and
  - (J) establishes or continues an outreach program to provide information, counseling, referral and assistance regarding pension and other retirement benefits, with particular emphasis on outreach to women, minorities, older individuals residing in rural areas and low income retirees; and

(2) an assurance that staff members (including volunteer staff members) have no conflict of interest in providing the services described in the plan described in paragraph (1).

(f) CRITERIA.—The Assistant Secretary shall consider the following criteria in awarding grants under this section:

(1) Evidence of a commitment by the entity to carry out a proposed pension counseling and information program.

(2) The ability of the entity to perform effective outreach to affected populations, particularly populations that are identified in need of special outreach.

(3) Reliable information that the population to be served by the entity has a demonstrable need for the services proposed to be provided under the program.

(4) The ability of the entity to provide services under the program on a statewide or regional basis.

(g) TRAINING AND TECHNICAL ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Assistant Secretary shall award grants to eligible entities to establish training and technical assistance programs that shall provide information and technical assistance to the staffs of entities operating pension counseling and information programs described in subsection (b), and general assistance to such entities, including assistance in the design of program evaluation tools.

(2) ELIGIBLE ENTITIES.—Entities that are eligible to receive a grant under this subsection include nonprofit private organizations with a record 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 Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require.

(h) PENSION ASSISTANCE HOTLINE AND INTRAGENCY COORDINATION.—

(1) HOTLINE.—The Assistant Secretary shall enter into agreements with other Federal agencies to establish and administer a national telephone hotline that shall provide information regarding pension and other retirement benefits, and rights related to such benefits.

(2) CONTENT.—Such hotline described in paragraph (1) shall provide information for individuals seeking outreach, information, counseling, referral, and assistance regarding pension and other retirement benefits, and rights related to such benefits.

(3) AGREEMENTS.—The Assistant Secretary may enter into agreements with the Secretary of Labor and the heads of other Federal agencies that regulate the provision of pension and other retirement benefits in order to carry out this subsection.

(i) REPORT TO CONGRESS.—Not later than 30 months after the date of the enactment of this section, the Assistant Secretary shall submit to the Committee on Education and the Workforce of the

House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a report that—

(1) summarizes the distribution of funds authorized for grants under this section and the expenditure of such funds;

(2) 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;

(3) outlines the problems that individuals participating in programs funded under this section encountered concerning rights related to pension and other retirement benefits; and

(4) 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.

(j) ADMINISTRATIVE EXPENSES.—Of the funds appropriated under section 216 to carry out this section for a fiscal year, not more than \$100,000 may be used by the Administration for administrative expenses.

(42 U.S.C. 3020e-1)

**SEC. 216. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—For purposes of carrying out this Act, there are authorized to be appropriated for administration, salaries, and expenses of the Administration such sums as may be necessary for fiscal years 2001, 2002, 2003, 2004, and 2005<sup>1</sup>

(b) ELDERCARE LOCATOR SERVICE.—There are authorized to be appropriated to carry out section 202(a)(24) (relating to the National Eldercare Locator Service) such sums as may be necessary for fiscal year 2001, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(c) PENSION COUNSELING AND INFORMATION PROGRAMS.—There are authorized to be appropriated to carry out section 215, such sums as may be necessary for fiscal year 2001 and for each of the 4 succeeding fiscal years.

(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 para-

<sup>1</sup> So in law. Probably should insert a period. The amendment made by section 205(1)(B) of the Older Americans Act Amendments of 2000 (P.L. 106-501; 114 Stat. 2234) struck the period.

graph (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 Assistant Secretary shall administer programs under this title through the Administration.

(2) In carrying out the provisions of this title, the Assistant Secretary 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 Assistant Secretary shall provide technical assistance and training (by contract, grant, or otherwise) to State long-term care ombudsman programs established under section 307(a)(9) 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.

(d)(1) Any funds received under an allotment as described in section 304(a), or funds contributed toward the non-Federal share under section 304(d), shall be used only for activities and services to benefit older individuals and other individuals as specifically provided for in this title.

(2) No provision of this title shall be construed as prohibiting a State agency or area agency on aging from providing services by using funds from sources not described in paragraph (1).

(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.

(42 U.S.C. 3022)

## AUTHORIZATION OF APPROPRIATIONS; USES OF FUNDS

SEC. 303. (a)(1) There are authorized to be appropriated to carry out part B (relating to supportive services) such sums as may be necessary for fiscal year 2001, and such sums as may be necessary for each of the 4 succeeding fiscal years.

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

(b)(1) There are authorized to be appropriated to carry out subpart 1 of part C (relating to congregate nutrition services) such sums as may be necessary for fiscal year 2001, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(2) There are authorized to be appropriated to carry out subpart 2 of part C (relating to home delivered nutrition services) such sums as may be necessary for fiscal year 2001, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(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 to carry out part D (relating to disease prevention and health promotion services) such sums as may be necessary for fiscal year 2001, and such sums as may be necessary for each of the 4 succeeding fiscal years.

(e)(1) There are authorized to be appropriated to carry out part E (relating to family caregiver support) \$125,000,000 for fiscal year 2001 if the aggregate amount appropriated under subsection (a)(1) (relating to part B, supportive services), paragraphs (1) (relating to subpart 1 of part C, congregate nutrition services) and (2) (relating to subpart 2 of part C, home delivered nutrition services) of subsection (b), and (d) (relating to part D, disease prevention and health promotion services) of this section for fiscal year 2001 is not less than the aggregate amount appropriated under subsection (a)(1), paragraphs (1) and (2) of subsection (b), and subsection (d) of section 303 of the Older Americans Act of 1965 for fiscal year 2000.

(2) There are authorized to be appropriated to carry out part E (relating to family caregiver support) such sums as may be necessary for each of the 4 succeeding fiscal years.

(3) Of the funds appropriated under paragraphs (1) and (2)—

(A) 4 percent of such funds shall be reserved to carry out activities described in section 375; and

(B) 1 percent of such funds shall be reserved to carry out activities described in section 376.

(42 U.S.C. 3023)

#### ALLOTMENT; FEDERAL SHARE

SEC. 304. (a)(1) From the sums appropriated under subsections (a) through (d) of 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.

(2) In determining the amounts allotted to States from the sums appropriated under section 303 for a fiscal year, the Assistant Secretary shall first determine the amount allotted to each State under paragraph (1) and then proportionately adjust such amounts, if necessary, to meet the requirements of paragraph (3).

(3)(A) No State shall be allotted less than  $\frac{1}{2}$  of 1 percent of the sum appropriated for the fiscal year for which the determination is made.

(B) Guam and the United States Virgin Islands shall each be allotted not less than  $\frac{1}{4}$  of 1 percent of the sum appropriated for the fiscal year for which the determination is made.

(C) American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than  $\frac{1}{16}$  of 1 percent of the sum appropriated for the fiscal year for which the deter-

mination is made. For the purposes of the exception contained in subparagraph (A) only, the term “State”<sup>1</sup> does not include Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(D) No State shall be allotted less than the total amount allotted to the State for fiscal year 2000 and no State shall receive a percentage increase above the fiscal year 2000 allotment that is less than 20 percent of the percentage increase above the fiscal year 2000 allotments for all of the States.

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

(5) State allotments for a fiscal year under this section shall be proportionally reduced to the extent that appropriations may be insufficient to provide the full allotments of the prior year.

(b) Whenever the Assistant Secretary determines that any amount allotted to a State under part B or C, or subpart 1 of part E, 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 Assistant Secretary shall make such allotment available for carrying out such purpose to one or more other States to the extent the Assistant Secretary 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 Assistant Secretary finds that any State has failed to qualify under the State plan requirements of section 307 or the Assistant Secretary does not approve the funding formula required under section 305(a)(2)(C), the Assistant Secretary shall withhold the allotment of funds to such State referred to in subsection (a). The Assistant Secretary 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

<sup>1</sup>Error in amendment made by section 303(a) of the Older Americans Act Amendments of 2000 (P.L. 106-501; 114 Stat. 2239) which included double quotation marks around the word “State”.



ombudsman program under section 307(a)(9) 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 Assistant Secretary may attribute fair market value to services and facilities contributed from non-Federal sources.

(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 Assistant Secretary, designate a State agency as the sole State agency to—

(A) develop a State plan to be submitted to the Assistant Secretary 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, organization, 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 Assistant Secretary, 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 and older individuals residing in rural areas) residing in such areas, the distribution of older individuals who have greatest social need (with particular attention to low-income minority individuals and older individuals residing in rural areas) residing in such areas, the distribu-

tion 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 Assistant Secretary, 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 Assistant Secretary, 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 Assistant Secretary 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 individuals and older individuals residing in rural areas, 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)(16); 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 and older individuals residing in rural areas;

(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<sup>1</sup>; 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 subsection (a)(1) 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 subsection (a)(1) 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 subsection (a)(1) 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 Assistant Secretary to request redesignation as an interstate planning and service area comprising the entire metropolitan area or Indian reservation. If the Assistant Secretary approves such an application, the Assistant Secretary 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.

(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 Assistant Secretary. The Assistant Secretary shall afford such unit, region, metropolitan area, or Indian reservation an opportunity for a hearing. In carrying out the provisions of this paragraph, the Assistant Secretary may approve the decision of the State agency,

<sup>1</sup>Section 304(2)(C) of the Older Americans Act Amendments of 2000 (P.L. 106-501; 114 Stat. 2292) amends this clause by inserting "and older individuals residing in rural areas" after "low-income minority individuals". The amendment could not be executed because of an incorrect reference to text.

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 Assistant Secretary deems appropriate.

(5)(A) A State which on or before October 1, 1980, had designated, with the approval of the Assistant Secretary, 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<sup>1</sup> 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 Assistant Secretary.

(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.

<sup>1</sup> Error in amendment made by section 305(b) of Public Law 102-375. Should strike "services" and insert "service".

(iv) In deciding an appeal described in clause (ii)(V), the Assistant Secretary may affirm or set aside the decision of the State agency. If the Assistant Secretary 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 and older individuals residing in rural areas) 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)(2), 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, including 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 assurances that the area agency on aging will report annually to the State agency 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)(C)) as such focal point; and

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

(4)(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 older individuals residing in rural areas, 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 and older individuals residing in rural areas in the area served by the provider;

(II) to the maximum extent feasible, provide services to low-income minority individuals and older individuals residing in rural areas 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 and older individuals residing in rural areas 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 and older individuals residing in rural areas);

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

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

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

<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.

(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 and older individuals residing in rural areas;

(5) provide assurances that the area agency on aging will coordinate planning, identification, assessment of needs, and provision of services for older individuals with disabilities, with particular attention to individuals with severe disabilities, with agencies that develop or provide services for individuals with disabilities;

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

(A) 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;

(B) 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;

(C)(i) where possible, enter into arrangements with organizations providing day care services for children, assistance to older individuals caring for relatives who are children, 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—

(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 676B of the Community Services Block Grant Act;

<sup>1</sup> See footnote on previous page.



(D) establish an advisory council consisting of older individuals (including minority individuals and older individuals residing in rural areas) 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;

(E) 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;

(F) 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; and

(G) 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;

(7) provide that the area agency on aging will facilitate the coordination of community-based, long-term care services designed to enable older individuals to remain in their homes, by means including—

(A) development of case management services as a component of the long-term care services, consistent with the requirements of paragraph (8);

(B) involvement of long-term care providers in the coordination of such services; and

(C) increasing community awareness of and involvement in addressing the needs of residents of long-term care facilities;

(8) 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 a public agency or a nonprofit private agency that—

(i) gives each older individual seeking services under this title a list of agencies that provide similar services within the jurisdiction of the area agency on aging;

(ii) gives each individual described in clause (i) a statement specifying that the individual has a right to make an independent choice of service providers and documents receipt by such individual of such statement;

(iii) has case managers acting as agents for the individuals receiving the services and not as promoters for the agency providing such services; or

(iv) is located in a rural area and obtains a waiver of the requirements described in clauses (i) through (iii);

(9) provide assurances that the area agency on aging, in carrying out the State Long-Term Care Ombudsman program under section 307(a)(9), will expend not less than the total amount of funds appropriated under this Act and expended by the agency in fiscal year 2000 in carrying out such a program under this title;

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

(11) provide information and assurances concerning services to older individuals who are Native Americans (referred to in this paragraph as "older Native Americans"), including—

(A) information concerning whether there is a significant population of older Native Americans in the planning and service area and if so, an assurance that the area agency on aging will pursue activities, including outreach, to increase access of those older Native Americans to programs and benefits provided under this title;

(B) an assurance that the area agency on aging will, to the maximum extent practicable, coordinate the services the agency provides under this title with services provided under title VI; and

(C) an assurance that the area agency on aging will make services under the area plan available, to the same extent as such services are available to older individuals within the planning and service area, to older Native Americans; and

(12) provide that the area agency on aging will establish procedures for coordination of services with entities conducting other Federal or federally assisted programs for older individuals at the local level, with particular emphasis on entities conducting programs described in section 203(b) within the planning and service area.

(13) 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 Assistant Secretary 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 Assistant Secretary 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;

(14) 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; and

(15)<sup>1</sup> 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.

(15)<sup>1</sup> 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)<sup>1</sup> 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;

(b) 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 and had conducted a timely public hearing upon request.

(c)(1) Subject to regulations prescribed by the Assistant Secretary, 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

<sup>1</sup> Section 305(a)(13) of the Older Americans Act Amendments of 2000 (P.L. 106-501; 114 Stat. 2242) inserted paragraphs (14) and the first paragraph designated as (15).

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 Assistant Secretary 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 Assistant Secretary may by regulation prescribe. If the Assistant Secretary determines, in the discretion of the Assistant Secretary, that a State failed in 2 successive years to comply with the requirements under this title, then the State shall submit to the Assistant Secretary a State plan for a 1-year period that meets such criteria, for subsequent years until the Assistant Secretary 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—
  - (A) require each area agency on aging designated under section 305(a)(2)(A) to develop and submit to the State agency for approval, in accordance with a uniform format developed by the State agency, an area plan meeting the requirements of section 306; and
  - (B) be based on such area plans.
- (2) The plan shall provide that the State agency will—
  - (A) evaluate, using uniform procedures described in section 202(a)(29), the need for supportive services (including legal assistance pursuant to 307(a)(11), information and assistance, and transportation services), nutrition services, and multipurpose senior centers within the State;
  - (B) develop a standardized process to determine the extent to which public or private programs and resources (including volunteers and programs and services of voluntary organizations) that have the capacity and actually meet such need; and
  - (C) specify a minimum proportion of the funds received by each area agency on aging in the State to carry out part B that will be expended (in the absence of a waiver under section 306(b) or 316) by such area agency on aging to provide each of the categories of services specified in section 306(a)(2).
- (3) The plan shall—
  - (A) include (and may not be approved unless the Assistant Secretary approves) the statement and demonstration required by paragraphs (2) and (4) of section 305(d) (concerning intrastate distribution of funds); and
  - (B) with respect to services for older individuals residing in rural areas—
    - (i) provide assurances that the State agency will spend for each fiscal year, not less than the amount expended for such services for fiscal year 2000;
    - (ii) identify, for each fiscal year to which the plan applies, the projected costs of providing such services (including the cost of providing access to such services); and
    - (iii) describe the methods used to meet the needs for such services in the fiscal year preceding the first year to which such plan applies.
- (4) The plan shall provide that the State agency will conduct periodic evaluations of, and public hearings on, activities and projects carried out in the State under this title and title VII, including evaluations of the effectiveness of services provided to individuals with greatest economic need, greatest social need, or disabilities, with particular attention to low-income minority individuals and older individuals residing in rural areas.
- (5) The plan shall provide that the State agency will—
  - (A) afford an opportunity for a hearing upon request, in accordance with published procedures, to any area

agency on aging submitting a plan under this title, to any provider of (or applicant to provide) services;

(B) issue guidelines applicable to grievance procedures required by section 306(a)(10); and

(C) afford an opportunity for a public hearing, upon request, by any area agency on aging, by any provider of (or applicant to provide) services, or by any recipient of services under this title regarding any waiver request, including those under section 316.

(6) The plan shall provide that the State agency will make such reports, in such form, and containing such information, as the Assistant Secretary may require, and comply with such requirements as the Assistant Secretary 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.

(8)(A) The plan shall provide that no supportive services, nutrition services, or in-home services will be directly provided by the State agency or an area agency on aging in the State, unless, in the judgment of the State agency—

(i) provision of such services by the State agency or the area agency on aging is necessary to assure an adequate supply of such services;

(ii) such services are directly related to such State agency's or area agency on aging's administrative functions; or

(iii) such services can be provided more economically, and with comparable quality, by such State agency or area agency on aging.

(B) Regarding case management services, if the State agency or area agency on aging is already providing case management services (as of the date of submission of the plan) under a State program, the plan may specify that such agency is allowed to continue to provide case management services.

(C) The plan may specify that an area agency on aging is allowed to directly provide information and assistance services and outreach.

(9) 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, and will expend for such purpose an amount that is not less than an amount expended by the State agency with funds received under this title for fiscal year 2000, and an amount that is not less than the amount expended by the State agency with funds received under title VII for fiscal year 2000.

(10) The plan shall provide assurances that the special needs of older individuals residing in rural areas will be taken into consideration and shall describe how those needs have been met and describe how funds have been allocated to meet those needs.

(11) 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 Assistant Secretary; 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 Assistant Secretary, 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.

(12) 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.

(13) 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.

(14) 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.
- (15) 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.
- (16) 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 and older individuals residing in rural areas);
    - (iii) older individuals with greatest social need (with particular attention to low-income minority individuals and older individuals residing in rural areas);
    - (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.
- (17) 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, to enhance services and develop collaborative programs, where appropriate, to meet the needs of older individuals with disabilities.
- (18) 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)(7), 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

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

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

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

(21) The plan shall—

(A) provide an assurance that the State agency will coordinate programs under this title and programs under title VI, if applicable; and

(B) 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 benefits provided by the agency, including programs and benefits provided under this title, if applicable, and specify the ways in which the State agency intends to implement the activities.

(22) 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)(8).

(23) 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.

(24) 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.

(25) 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.

(26) 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 agency or an area agency on aging to carry out a contract or commercial relationship that is not carried out to implement this title.

(b)(1) The Assistant Secretary shall approve any State plan which the Assistant Secretary finds fulfills the requirements of subsection (a), except the Assistant Secretary may not approve such plan unless the Assistant Secretary 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 Assistant Secretary, 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 Assistant Secretary 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 such requirement.

(c)(1) The Assistant Secretary 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 Assistant Secretary shall be deemed to be a reference to the Secretary.

(d) Whenever the Assistant Secretary, 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 Assistant Secretary 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 Assistant Secretary'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 Assistant Secretary is satisfied that there will no longer be any failure to comply. Until the Assistant Secretary 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 Assistant Secretary shall, in accordance with regulations the Assistant Secretary 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 Assistant Secretary 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 such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Assistant Secretary, or any

officer designated by the Assistant Secretary for such purpose. The Assistant Secretary thereupon shall file in the court the record of the proceedings on which the Assistant Secretary'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 Assistant Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Assistant Secretary may modify or set aside the Assistant Secretary's order. The findings of the Assistant Secretary 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 Assistant Secretary to take further evidence, and the Assistant Secretary 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 Assistant Secretary 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 Assistant Secretary's action.

(f) 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.

(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

Assistant Secretary, 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 Assistant Secretary in accordance with this paragraph. Any such application shall be transmitted in such form, and according to such procedures, as the Assistant Secretary may require, except that such application may not be made as part of, or as an amendment to, the State plan.

(B) The Assistant Secretary may approve any application transmitted by a State under subparagraph (A) if the Assistant Secretary 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 Assistant Secretary;

(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 Assistant Secretary may approve that portion of the amount requested by a State in its application under subparagraph (A) which the Assistant Secretary 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,<sup>1</sup> to transfer not more than 40 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 Assistant Secretary shall approve any such transfer unless the Assistant Secretary determines that such transfer is not consistent with the objectives of this Act.

(B) If a State demonstrates, to the satisfaction of the Assistant Secretary, 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 any fiscal year are insufficient to satisfy the need for services under subpart 1 or subpart 2 of part C, then the Assistant Secretary may grant a waiver that permits the State to transfer under subparagraph (A) to satisfy such need an additional 10 percent of the funds so received by a State and attributable to funds appropriated under paragraph (1) or (2) of section 303(b).

(C) A State's request for a waiver under subparagraph (B) shall—

- (i) be not more than one page in length;
- (ii) include a request that the waiver be granted;
- (iii) specify the amount of the funds received by a State and attributable to funds appropriated under paragraph (1) or (2) of section 303(b), over the permissible 40 percent referred to in subparagraph (A), that the State requires to satisfy the need for services under subpart 1 or 2 of part C; and
- (iv) not include a request for a waiver with respect to an amount if the transfer of the amount would jeopardize the

<sup>1</sup>Section 307(1)(A)(i) of the Older Americans Act Amendments of 2000 (P.L. 106-501; 114 Stat. 2245) amends this subparagraph by striking "in its plan under section 307(a)(13) regarding Part C of this title." The amendment could not be executed because of an incorrect reference to text.

appropriate provision of services under subpart 1 or 2 of part C.

(5)(A) Notwithstanding any other provision of this title, 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 any fiscal year between programs under part B and part C, for use as the State considers appropriate. The State shall notify the Assistant Secretary of any such election.

(B) At a minimum, the notification 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.

(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 Assistant Secretary 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 Assistant Secretary 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 Assistant Secretary may determine. From a State's allotment for a fiscal year which is available under section 308 the Assistant Secretary may pay to a State which does not have a State plan approved under

section 307 such amounts as the Assistant Secretary 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 Assistant Secretary may provide reimbursements to any State (or to any tribal organization receiving a grant under title VI), upon application for such reimbursement, for funds such State makes available to area agencies on aging in such State (or funds used by such tribal organization) for the delivery of supportive services (and related supplies) during any major disaster declared by the President in accordance with the Robert T. Stafford Relief and Emergency Assistance Act.

(2) Total payments to all States and such tribal organizations 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 Assistant Secretary 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 or such tribal organization, then the Assistant Secretary shall provide not less than 75 percent of such amount to such State or such tribal organization not later than 5 days after the date of such decision.

(b)(1) At the beginning of each fiscal year the Assistant Secretary shall set aside, for payment to States and such tribal organizations under subsection (a), an amount equal to 2 percent of the total amount appropriated and available to carry out title IV.

(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 and such tribal organizations 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)



## NUTRITION SERVICES INCENTIVE PROGRAM

SEC. 311. (a) The purpose of this section is to provide incentives to encourage and reward effective performance by States and tribal organizations in the efficient delivery of nutritious meals to older individuals.

(b)(1) The Secretary of Agriculture shall allot and provide in the form of cash or commodities or a combination thereof (at the discretion of the State) to each State agency with a plan approved under this title for a fiscal year, and to each grantee with an application approved under title VI for such fiscal year, an amount bearing the same ratio to the total amount appropriated for such fiscal year under subsection (e) as the number of meals served in the State under such plan approved for the preceding fiscal year (or the number of meals served by the title VI grantee, under such application approved for such preceding fiscal year), bears to the total number of such meals served in all States and by all title VI grantees under all such plans and applications approved for such preceding fiscal year.

(2) For purposes of paragraph (1), in the case of a grantee that has an application approved under title VI for a fiscal year but that did not receive assistance under this section for the preceding fiscal year, the number of meals served by the title VI grantee for the preceding fiscal year shall be deemed to equal the number of meals that the Assistant Secretary estimates will be served by the title VI grantee in the fiscal year for which the application was approved.

(c)(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 416 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.

(d)(1) In any case in which a State elects to receive cash payments,<sup>1</sup> 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 pur-

<sup>1</sup>Error in the amendment made by section 309(5) of the Older Americans Act Amendments of 2000 (P.L. 106-501; 114 Stat. 2247).

chase 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.

(4) Among the commodities delivered under subsection (c), the Secretary of Agriculture shall give special emphasis to high protein foods. The Secretary of Agriculture, in consultation with the Assistant Secretary, is authorized to prescribe the terms and conditions respecting the donating of commodities under this subsection.

(e) There are authorized to be appropriated to carry out this section (other than subsection (c)(1)) such sums as may be necessary for fiscal year 2001 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(f) 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 Assistant Secretary 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 Assistant Secretary 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.

The Assistant Secretary 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.

(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)

#### SEC. 315. CONSUMER CONTRIBUTIONS.

(a) COST SHARING.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), a State is permitted to implement cost sharing for all services funded by this Act by recipients of the services.

(2) EXCEPTION.—The State is not permitted to implement the cost sharing described in paragraph (1) for the following services:

(A) Information and assistance, outreach, benefits counseling, or case management services.

(B) Ombudsman, elder abuse prevention, legal assistance, or other consumer protection services.

(C) Congregate and home delivered meals.

(D) Any services delivered through tribal organizations.

(3) PROHIBITIONS.—A State or tribal organization shall not permit the cost sharing described in paragraph (1) for any services delivered through tribal organizations. A State shall not permit cost sharing by a low-income older individual if the income of such individual is at or below the Federal poverty line. A State may exclude from cost sharing low-income individuals whose incomes are above the Federal poverty line. A State shall not consider any assets, savings, or other property owned by older individuals when defining low-income individuals who are exempt from cost sharing, when creating a sliding scale for the cost sharing, or when seeking contributions from any older individual.

(4) PAYMENT RATES.—If a State permits the cost sharing described in paragraph (1), such State shall establish a sliding scale, based solely on individual income and the cost of delivering services.

(5) REQUIREMENTS.—If a State permits the cost sharing described in paragraph (1), such State shall require each area agency on aging in the State to ensure that each service provider involved, and the area agency on aging, will—

(A) protect the privacy and confidentiality of each older individual with respect to the declaration or nondeclaration of individual income and to any share of costs paid or unpaid by an individual;

(B) establish appropriate procedures to safeguard and account for cost share payments;

(C) use each collected cost share payment to expand the service for which such payment was given;

(D) not consider assets, savings, or other property owned by an older individual in determining whether cost sharing is permitted;

(E) not deny any service for which funds are received under this Act for an older individual due to the income of such individual or such individual's failure to make a cost sharing payment;

(F) determine the eligibility of older individuals to cost share solely by a confidential declaration of income and with no requirement for verification; and

(G) widely distribute State created written materials in languages reflecting the reading abilities of older individuals that describe the criteria for cost sharing, the State's sliding scale, and the mandate described under subparagraph (E).

(6) WAIVER.—An area agency on aging may request a waiver to the State's cost sharing policies, and the State shall approve such a waiver if the area agency on aging can adequately demonstrate that—

(A) a significant proportion of persons receiving services under this Act subject to cost sharing in the planning

and service area have incomes below the threshold established in State policy; or

(B) cost sharing would be an unreasonable administrative or financial burden upon the area agency on aging.

(b) VOLUNTARY CONTRIBUTIONS.—

(1) IN GENERAL.—Voluntary contributions shall be allowed and may be solicited for all services for which funds are received under this Act provided that the method of solicitation is noncoercive.

(2) LOCAL DECISION.—The area agency on aging shall consult with the relevant service providers and older individuals in agency's planning and service area in a State to determine the best method for accepting voluntary contributions under this subsection.

(3) PROHIBITED ACTS.—The area agency on aging and service providers shall not means test for any service for which contributions are accepted or deny services to any individual who does not contribute to the cost of the service.

(4) REQUIRED ACTS.—The area agency on aging shall ensure that each service provider will—

(A) provide each recipient with an opportunity to voluntarily contribute to the cost of the service;

(B) clearly inform each recipient that there is no obligation to contribute and that the contribution is purely voluntary;

(C) protect the privacy and confidentiality of each recipient with respect to the recipient's contribution or lack of contribution;

(D) establish appropriate procedures to safeguard and account for all contributions; and

(E) use all collected contributions to expand the service for which the contributions were given.

(c) PARTICIPATION.—

(1) IN GENERAL.—The State and area agencies on aging, in conducting public hearings on State and area plans, shall solicit the views of older individuals, providers, and other stakeholders on implementation of cost-sharing in the service area or the State.

(2) PLANS.—Prior to the implementation of cost sharing under subsection (a), each State and area agency on aging shall develop plans that are designed to ensure that the participation of low-income older individuals (with particular attention to low-income minority individuals and older individuals residing in rural areas) receiving services will not decrease with the implementation of the cost sharing under such subsection.

(d) EVALUATION.—Not later than 1 year after the date of the enactment of the Older Americans Act Amendments of 2000, and annually thereafter, the Assistant Secretary shall conduct a comprehensive evaluation of practices for cost sharing to determine its impact on participation rates with particular attention to low-income and minority older individuals and older individuals residing in rural areas. If the Assistant Secretary finds that there is a disparate impact upon low-income or minority older individuals or

older individuals residing in rural areas in any State or region within the State regarding the provision of services, the Assistant Secretary shall take corrective action to assure that such services are provided to all older individuals without regard to the cost sharing criteria.

(42 U.S.C. 3030c-2)

**SEC. 316. WAIVERS.**

(a) **IN GENERAL.**—The Assistant Secretary may waive any of the provisions specified in subsection (b) with respect to a State, upon receiving an application by the State agency containing or accompanied by documentation sufficient to establish, to the satisfaction of the Assistant Secretary, that—

(1) approval of the State legislature has been obtained or is not required with respect to the proposal for which waiver is sought;

(2) the State agency has collaborated with the area agencies on aging in the State and other organizations that would be affected with respect to the proposal for which waiver is sought;

(3) the proposal has been made available for public review and comment, including the opportunity for a public hearing upon request, within the State (and a summary of all of the comments received has been included in the application); and

(4) the State agency has given adequate consideration to the probable positive and negative consequences of approval of the waiver application, and the probable benefits for older individuals can reasonably be expected to outweigh any negative consequences, or particular circumstances in the State otherwise justify the waiver.

(b) **REQUIREMENTS SUBJECT TO WAIVER.**—The provisions of this title that may be waived under this section are—

(1) any provision of sections 305, 306, and 307 requiring statewide uniformity of programs carried out under this title, to the extent necessary to permit demonstrations, in limited areas of a State, of innovative approaches to assist older individuals;

(2) any area plan requirement described in section 306(a) if granting the waiver will promote innovations or improve service delivery and will not diminish services already provided under this Act;

(3) any State plan requirement described in section 307(a) if granting the waiver will promote innovations or improve service delivery and will not diminish services already provided under this Act;

(4) any restriction under paragraph (5) of section 308(b), on the amount that may be transferred between programs carried out under part B and part C; and

(5) the requirement of section 309(c) that certain amounts of a State allotment be used for the provision of services, with respect to a State that reduces expenditures under the State plan of the State (but only to the extent that the non-Federal share of the expenditures is not reduced below any minimum specified in section 304(d) or any other provision of this title).

(c) DURATION OF WAIVER.—The application by a State agency for a waiver under this section shall include a recommendation as to the duration of the waiver (not to exceed the duration of the State plan of the State). The Assistant Secretary, in granting such a waiver, shall specify the duration of the waiver, which may be the duration recommended by the State agency or such shorter time period as the Assistant Secretary finds to be appropriate.

(d) REPORTS TO SECRETARY.—With respect to each waiver granted under this section, not later than 1 year after the expiration of such waiver, and at any time during the waiver period that the Assistant Secretary may require, the State agency shall prepare and submit to the Assistant Secretary a report evaluating the impact of the waiver on the operation and effectiveness of programs and services provided under this title.

(42 U.S.C. 3030c-3)

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

##### PROGRAM AUTHORIZED

SEC. 321. (a) The Assistant Secretary 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, and services provided by an area agency on aging, in conjunction with local transportation service providers, public transportation agencies, and other local government agencies, that result in increased provision of such transportation services for older individuals;

(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 assist older individuals in obtaining housing for which assistance is provided under programs of the Department of Housing and Urban Development;

(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—

(A) client assessment, case management services, and development and coordination of community services;

- (B) supportive activities to meet the special needs of caregivers, including caretakers who provide in-home services to frail older individuals; and
- (C) in-home services and other community services, including home health, homemaker, shopping, escort, reader, and letter writing services, to assist older 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, and including the coordination of the services with programs administered by or receiving assistance from the Department of Labor, including programs carried out under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);
- (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-in-



come 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 Assistant Secretary 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 chapter 3 of subtitle A of title VII and section 307(a)(12);

(16) inservice training and State leadership for legal assistance activities;

(17) health and nutrition education services, including information concerning prevention, diagnosis, treatment, and rehabilitation 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;

(22) in-home services for frail older individuals, including individuals with Alzheimer's disease and related disorders with neurological and organic brain dysfunction, and their families, including in-home services defined by a State agency in the State plan submitted under section 307, taking into consideration the age, economic need, and noneconomic and nonhealth factors contributing to the frail condition and need for services of the individuals described in this paragraph, and in-home services defined by an area agency on aging in the area plan submitted under section 306.<sup>1</sup>

(23) any other services necessary for the general welfare of older individuals;

if such services meet standards prescribed by the Assistant Secretary and are necessary for the general welfare of older individuals. For purposes of paragraph (5), the term "client assessment

<sup>1</sup> Error in the amendment made by section 311(1)(F) of the Older Americans Act Amendments of 2000 (P.L. 106-501; 114 Stat. 2251).

through case management” includes providing information relating to assistive technology.

(b)(1) The Assistant Secretary 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.

(c) In carrying out the provisions of this part, to more efficiently and effectively deliver services to older individuals, each area agency on aging shall coordinate services described in subsection (a) with other community agencies and voluntary organizations providing the same services. In coordinating the services, the area agency on aging shall make efforts to coordinate the services with agencies and organizations carrying out intergenerational programs or projects.

(d) Funds made available under this part shall supplement, and not supplant, any Federal, State, or local funds expended by a State or unit of general purpose local government (including an area agency on aging) to provide services described in subsection (a).

(42 U.S.C. 3030d)

#### PART C—NUTRITION SERVICE

##### Subpart 1—Congregate Nutrition Services

###### PROGRAM AUTHORIZED

SEC. 331. The Assistant Secretary 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 Assistant Secretary 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, including adult day care facilities and multigenerational meal sites; 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 Assistant Secretary 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 Assistant Secretary 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 Assistant Secretary, 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—General Provisions

**SEC. 339. NUTRITION.**

A State that establishes and operates a nutrition project under this chapter shall—

- (1) solicit the advice of a dietitian or individual with comparable expertise in the planning of nutritional services, and
- (2) ensure that the project—
  - (A) provides meals that—
    - (i) comply with the Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture,
    - (ii) provide to each participating older individual—
      - (I) a minimum of 33 $\frac{1}{3}$  percent of the daily recommended dietary allowances as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences, if the project provides one meal per day,
      - (II) a minimum of 66 $\frac{2}{3}$  percent of the allowances if the project provides two meals per day, and

(III) 100 percent of the allowances if the project provides three meals per day, and (iii) to the maximum extent practicable, are adjusted to meet any special dietary needs of program participants,

(B) provides flexibility to local nutrition providers in designing meals that are appealing to program participants,

(C) encourages providers to enter into contracts that limit the amount of time meals must spend in transit before they are consumed,

(D) where feasible, encourages arrangements with schools and other facilities serving meals to children in order to promote intergenerational meal programs,

(E) provides that meals, other than in-home meals, are provided in settings in as close proximity to the majority of eligible older individuals' residences as feasible,

(F) 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,

(G) ensures that meal providers carry out such project with the advice of dietitians (or individuals with comparable expertise), meal participants, and other individuals knowledgeable with regard to the needs of older individuals,

(H) ensures that each participating area agency on aging establishes procedures that allow nutrition project administrators the option to offer a meal, on the same basis as meals 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 eligible under this chapter,

(I) ensures that nutrition services will be available to older individuals and to their spouses, and may be made available to individuals with disabilities who are not older individuals but who reside in housing facilities occupied primarily by older individuals at which congregate nutrition services are provided, and

(J) provide for nutrition screening and, where appropriate, for nutrition education and counseling.

(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—DISEASE PREVENTION AND HEALTH PROMOTION SERVICES  
PROGRAM AUTHORIZED

SEC. 361. (a) The Assistant Secretary 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 Assistant Secretary shall consult with the Directors of the Centers for Disease Control and Prevention and the National Institute on Aging.

(b) The Assistant Secretary 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)

**PART E—NATIONAL FAMILY CAREGIVER  
SUPPORT PROGRAM**

**SEC. 371. SHORT TITLE.**

This part may be cited as the “National Family Caregiver Support Act”.

(42 U.S.C. prec 3030s???)

**Subpart 1—Caregiver Support Program**

**SEC. 372. DEFINITIONS.**

In this subpart:

(1) **CHILD.**—The term “child” means an individual who is not more than 18 years of age.

(2) **FAMILY CAREGIVER.**—The term “family caregiver” means an adult family member, or another individual, who is an informal provider of in-home and community care to an older individual.

(3) **GRANDPARENT OR OLDER INDIVIDUAL WHO IS A RELATIVE CAREGIVER.**—The term “grandparent or older individual who is a relative caregiver” means a grandparent or stepgrandparent of a child, or a relative of a child by blood or marriage, who is 60 years of age or older and—

(A) lives with the child;

(B) is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregiver of the child; and

(C) has a legal relationship to the child, as such legal custody or guardianship, or is raising the child informally.

(42 U.S.C. 3030s)

**SEC. 373. PROGRAM AUTHORIZED.**

(a) **IN GENERAL.**—The Assistant Secretary shall carry out a program for making grants to States with State plans approved under section 307, to pay for the Federal share of the cost of carrying out State programs, to enable area agencies on aging, or entities that such area agencies on aging contract with, to provide multifaceted systems of support services—

(1) for family caregivers; and

(2) for grandparents or older individuals who are relative caregivers.

(b) **SUPPORT SERVICES.**—The services provided, in a State program under subsection (a), by an area agency on aging, or entity that such agency has contracted with, shall include—

(1) information to caregivers about available services;

(2) assistance to caregivers in gaining access to the services;

(3) individual counseling, organization of support groups, and caregiver training to caregivers to assist the caregivers in making decisions and solving problems relating to their caregiving roles;

(4) respite care to enable caregivers to be temporarily relieved from their caregiving responsibilities; and

(5) supplemental services, on a limited basis, to complement the care provided by caregivers.

(c) **POPULATION SERVED; PRIORITY.**—

(1) **POPULATION SERVED.**—Services under a State program under this subpart shall be provided to family caregivers, and grandparents and older individuals who are relative caregivers, and who—

(A) are described in paragraph (1) or (2) of subsection (a); and

(B) with regard to the services specified in paragraphs (4) and (5) of subsection (b), in the case of a caregiver described in paragraph (1), is providing care to an older individual who meets the condition specified in subparagraph (A)(i) or (B) of section 102(28).

(2) **PRIORITY.**—In providing services under this subpart, the State shall give priority for services to older individuals with greatest social and economic need, (with particular attention to low-income older individuals) and older individuals providing care and support to persons with mental retardation and related developmental disabilities (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001)) (referred to in this subpart as “developmental disabilities”).

(d) **COORDINATION WITH SERVICE PROVIDERS.**—In carrying out this subpart, each area agency on aging shall coordinate the activities of the agency, or entity that such agency has contracted with, with the activities of other community agencies and voluntary organizations providing the types of services described in subsection (b).

(e) QUALITY STANDARDS AND MECHANISMS AND ACCOUNTABILITY.—

(1) QUALITY STANDARDS AND MECHANISMS.—The State shall establish standards and mechanisms designed to assure the quality of services provided with assistance made available under this subpart.

(2) DATA AND RECORDS.—The State shall collect data and maintain records relating to the State program in a standardized format specified by the Assistant Secretary. The State shall furnish the records to the Assistant Secretary, at such time as the Assistant Secretary may require, in order to enable the Assistant Secretary to monitor State program administration and compliance, and to evaluate and compare the effectiveness of the State programs.

(3) REPORTS.—The State shall prepare and submit to the Assistant Secretary reports on the data and records required under paragraph (2), including information on the services funded under this subpart, and standards and mechanisms by which the quality of the services shall be assured.

(f) CAREGIVER ALLOTMENT.—

(1) IN GENERAL.—

(A) From sums appropriated under section 303(e) for fiscal years 2001 through 2005, the Assistant Secretary shall allot amounts among the States proportionately based on the population of individuals 70 years of age or older in the States.

(B) In determining the amounts allotted to States from the sums appropriated under section 303 for a fiscal year, the Assistant Secretary shall first determine the amount allotted to each State under subparagraph (A) and then proportionately adjust such amounts, if necessary, to meet the requirements of paragraph (2).

(C) The number of individuals 70 years of age or older in any State and in all States shall be determined by the Assistant Secretary on the basis of the most recent data available from the Bureau of the Census and other reliable demographic data satisfactory to the Assistant Secretary.

(2) MINIMUM ALLOTMENT.—

(A) The amounts allotted under paragraph (1) shall be reduced proportionately to the extent necessary to increase other allotments under such paragraph to achieve the amounts described in subparagraph (B).

(B)(i) Each State shall be allotted  $\frac{1}{2}$  of 1 percent of the amount appropriated for the fiscal year for which the determination is made.

(ii) Guam and the Virgin Islands of the United States shall each be allotted  $\frac{1}{4}$  of 1 percent of the amount appropriated for the fiscal year for which the determination is made.

(iii) American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted  $\frac{1}{16}$  of 1 percent of the amount appropriated for the fiscal year for which the determination is made.

(C) For the purposes of subparagraph (B)(i), the term “State” does not include Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

(g) AVAILABILITY OF FUNDS.—

(1) USE OF FUNDS FOR ADMINISTRATION OF AREA PLANS.— Amounts made available to a State to carry out the State program under this subpart may be used, in addition to amounts available in accordance with section 303(c)(1), for costs of administration of area plans.

(2) FEDERAL SHARE.—

(A) IN GENERAL.—Notwithstanding section 304(d)(1)(D), the Federal share of the cost of carrying out a State program under this subpart shall be 75 percent.

(B) NON-FEDERAL SHARE.—The non-Federal share of the cost shall be provided from State and local sources.

(C) LIMITATION.—A State may use not more than 10 percent of the total Federal and non-Federal share available to the State to provide support services to grandparents and older individuals who are relative caregivers.

(42 U.S.C. 3030s-1)

**SEC. 374. MAINTENANCE OF EFFORT.**

Funds made available under this subpart shall supplement, and not supplant, any Federal, State, or local funds expended by a State or unit of general purpose local government (including an area agency on aging) to provide services described in section 373.

(42 U.S.C. 3030s-2)

## Subpart 2—National Innovation Programs

**SEC. 375. INNOVATION GRANT PROGRAM.**

(a) IN GENERAL.—The Assistant Secretary shall carry out a program for making grants on a competitive basis to foster the development and testing of new approaches to sustaining the efforts of families and other informal caregivers of older individuals, and to serving particular groups of caregivers of older individuals, including low-income caregivers and geographically distant caregivers and linking family support programs with the State entity or agency that administers or funds programs for persons with mental retardation or related developmental disabilities and their families.

(b) EVALUATION AND DISSEMINATION OF RESULTS.—The Assistant Secretary shall provide for evaluation of the effectiveness of programs and activities funded with grants made under this section, and for dissemination to States of descriptions and evaluations of such programs and activities, to enable States to incorporate successful approaches into their programs carried out under this part.

(c) SUNSET PROVISION.—This section shall be effective for 3 fiscal years after the date of the enactment of the Older Americans Act Amendments of 2000.

(42 U.S.C. 3030s-11)



**SEC. 376. ACTIVITIES OF NATIONAL SIGNIFICANCE.**

(a) **IN GENERAL.**—The Assistant Secretary shall, directly or by grant or contract, carry out activities of national significance to promote quality and continuous improvement in the support provided to family and other informal caregivers of older individuals through program evaluation, training, technical assistance, and research.

(b) **SUNSET PROVISION.**—This section shall be effective for 3 fiscal years after the date of the enactment of the Older Americans Act Amendments of 2000.

(42 U.S.C. 3030s-12)

【Title heading is needed. See footnote below.】<sup>1</sup>

**SEC. 401. PURPOSES.**

The purposes of this title are—

- (1) to expand the Nation's knowledge and understanding of the older population and the aging process;
- (2) to design, test, and promote the use of innovative ideas and best practices in programs and services for older individuals;
- (3) to help meet the needs for trained personnel in the field of aging; and
- (4) to increase awareness of citizens of all ages of the need to assume personal responsibility for their own longevity.

(42 U.S.C. 3031)

**PART A—GRANT PROGRAMS****SEC. 411. PROGRAM AUTHORIZED.**

(a) **IN GENERAL.**—For the purpose of carrying out this section, the Assistant Secretary may make grants to and enter into contracts with States, public agencies, private nonprofit agencies, institutions of higher education, and organizations, including tribal organizations, for—

- (1) education and training to develop an adequately trained workforce to work with and on behalf of older individuals;
- (2) applied social research and analysis to improve access to and delivery of services for older individuals;
- (3) evaluation of the performance of the programs, activities, and services provided under this section;
- (4) the development of methods and practices to improve the quality and effectiveness of the programs, services, and activities provided under this section;
- (5) the demonstration of new approaches to design, deliver, and coordinate programs and services for older individuals;
- (6) technical assistance in planning, developing, implementing, and improving the programs, services, and activities provided under this section;
- (7) coordination with the designated State agency described in section 101(a)(2)(A)(i) of the Rehabilitation Act of

<sup>1</sup>Error in amendment made by section 401 of the Older Americans Act Amendments of 2000 (P.L. 106-501; 114 Stat. 2257). Title IV of this Act was amended to read but no title heading was included in the text of the amendment.

1973 (29 U.S.C. 721(a)(2)(A)(i)) to provide services to older individuals who are blind as described in such Act;

(8) the training of graduate level professionals specializing in the mental health needs of older individuals; and

(9) any other activities that the Assistant Secretary determines will achieve the objectives of this section.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2001, and such sums as may be necessary for subsequent fiscal years.

(42 U.S.C. 3032)

**SEC. 412. CAREER PREPARATION FOR THE FIELD OF AGING.**

(a) GRANTS.—The Assistant Secretary 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. 3032a)

**SEC. 413. OLDER INDIVIDUALS’ PROTECTION FROM VIOLENCE PROJECTS.**

(a) PROGRAM AUTHORIZED.—The Assistant Secretary shall make grants to States, area agencies on aging, nonprofit organizations, or tribal organizations to carry out the activities described in subsection (b).

(b) ACTIVITIES.—A State, an area agency on aging, a nonprofit organization, or a tribal organization that receives a grant under subsection (a) shall use such grant to—

(1) support projects in local communities, involving diverse sectors of each community, to coordinate activities concerning intervention in and prevention of elder abuse, neglect, and exploitation, including family violence and sexual assault, against older individuals;

(2) develop and implement outreach programs directed toward assisting older individuals who are victims of elder abuse, neglect, and exploitation (including family violence and sexual assault, against older individuals), including programs directed toward assisting the individuals in senior housing complexes, nursing homes, board and care facilities, and senior centers;

(3) expand access to family violence and sexual assault programs (including shelters, rape crisis centers, and support groups), including mental health services, safety planning and legal advocacy for older individuals and encourage the use of senior housing, hotels, or other suitable facilities or services when appropriate as emergency short-term shelters for older individuals who are the victims of elder abuse, including family violence and sexual assault; or

(4) promote research on legal, organizational, or training impediments to providing services to older individuals through shelters and other programs, such as impediments to provision of services in coordination with delivery of health care or services delivered under this Act.

(c) PREFERENCE.—In awarding grants under subsection (a), the Assistant Secretary shall give preference to a State, an area agency on aging, a nonprofit organization, or a tribal organization that has the ability to carry out the activities described in this section and title VII of this Act.

(d) COORDINATION.—The Assistant Secretary shall encourage each State, area agency on aging, nonprofit organization, and tribal organization that receives a grant under subsection (a) to coordinate activities provided under this section with activities provided by other area agencies on aging, tribal organizations, State adult protective service programs, private nonprofit organizations, and by other entities receiving funds under title VII of this Act.

(42 U.S.C. 3032b)

**SEC. 414. HEALTH CARE SERVICE DEMONSTRATION PROJECTS IN RURAL AREAS.**

(a) AUTHORITY.—The Assistant Secretary, after consultation with the State agency of the State involved, shall make grants to eligible public agencies and nonprofit private organizations to pay part or all of the cost of developing or operating model health care service projects (including related home health care services, adult day health care, outreach, and transportation) through multipurpose senior centers that are located in rural areas and that provide nutrition services under section 331, to meet the health care needs of medically underserved older individuals residing in such areas.

(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), a public agency or nonprofit private organization shall submit to the Assistant Secretary an application containing such

information and assurances as the Secretary may require, including—

(1) information describing the nature and extent of the applicant's—

(A) experience in providing medical services of the type to be provided in the project for which a grant is requested; and

(B) coordination and cooperation with—

(i) 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 such project; and

(ii) critical access hospitals (as defined in section 1861(mm)(1) of the Social Security Act (42 U.S.C. 1395x(mm)(1)) and rural health clinics (as defined in section 1861(aa)(2) of the Social Security Act (42 U.S.C. 1395x(aa)(2)));

(2) assurances that the applicant will carry out the project for which a grant is requested, through a multipurpose senior center located—

(A)(i) in a rural area that has a population of less than 5,000; or

(ii) in a county that has fewer than seven individuals per square mile; and

(B) in a State in which—

(i) not less than 33 $\frac{1}{3}$  of the population resides in rural areas; and

(ii) not less than 5 percent of the population resides in counties with fewer than seven individuals per square mile,

as defined by and determined in accordance with the most recent data available from the Bureau of the Census; and

(3) assurances that the applicant will submit to the Assistant Secretary such evaluations and reports as the Assistant Secretary may require.

(c) REPORTS.—The Assistant Secretary shall prepare and submit to the appropriate committees of Congress a report that includes summaries of the evaluations and reports required under subsection (b).

(42 U.S.C. 3032c)

**SEC. 415. COMPUTER TRAINING.**

(a) PROGRAM AUTHORIZED.—The Assistant Secretary, in consultation with the Assistant Secretary of Commerce for Communications and Information, may award grants or contracts to entities to provide computer training and enhanced Internet access for older individuals.

(b) PRIORITY.—If the Assistant Secretary awards grants under subsection (a), the Assistant Secretary shall give priority to an entity that—

(1) will provide services to older individuals living in rural areas;

(2) has demonstrated expertise in providing computer training to older individuals; or

(3) has demonstrated that it has a variety of training delivery methods, including facility-based, computer-based, and Internet-based training, that may facilitate a determination of the best method of training older individuals.

(c) SPECIAL CONSIDERATION.—In awarding grants under this section, the Assistant Secretary shall give special consideration to applicants that have entered into a partnership with one or more private entities providing such applicants with donated information technologies including software, hardware, or training.

(d) USE OF FUNDS.—An entity that receives a grant or contract under subsection (a) shall use funds received under such grant or contract to provide training for older individuals that—

(1) relates to the use of computers and related equipment, in order to improve the self-employment and employment-related technology skills of older individuals, as well as their ability to use the Internet; and

(2) is provided at senior centers, housing facilities for older individuals, elementary schools, secondary schools, and institutions of higher education.

(42 U.S.C. 3032d)

**SEC. 416. TECHNICAL ASSISTANCE TO IMPROVE TRANSPORTATION FOR SENIORS.**

(a) IN GENERAL.—The Secretary may award grants or contracts to nonprofit organizations to improve transportation services for older individuals.

(b) USE OF FUNDS.—A nonprofit organization receiving a grant or contract under subsection (a) shall use funds received under such grant or contract to provide technical assistance to assist local transit providers, area agencies on aging, senior centers and local senior support groups to encourage and facilitate coordination of Federal, State, and local transportation services and resources for older individuals. Such technical assistance may include—

(1) developing innovative approaches for improving access by older individuals to supportive services;

(2) preparing and disseminating information on transportation options and resources for older individuals and organizations serving such individuals through establishing a toll-free telephone number;

(3) developing models and best practices for comprehensive integrated transportation services for older individuals, including services administered by the Secretary of Transportation, by providing ongoing technical assistance to agencies providing services under title III and by assisting in coordination of public and community transportation services; and

(4) providing special services to link seniors to transportation services not provided under title III.

(42 U.S.C. 3032e)

**SEC. 417. DEMONSTRATION PROJECTS FOR MULTIGENERATIONAL ACTIVITIES.**

(a) GRANTS AND CONTRACTS.—The Assistant Secretary may award grants and enter into contracts with eligible organizations

to establish demonstration projects to 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) PREFERENCE.—In awarding grants and entering into contracts under subsection (a), the Assistant Secretary 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 and older individuals residing in rural areas).

(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 Assistant Secretary at such time, in such manner, and accompanied by such information as the Assistant Secretary 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 multigenerational activities assisted under the project to determine the effectiveness of the multigenerational activities, the impact of such activities on child care and youth day care programs, and the impact of such activities on older individuals involved in such project.

(2) REPORT.—The organization shall submit a report to the Assistant Secretary 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 Assistant Secretary receives the reports described in subsection (f)(2), the Assistant Secretary 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 names and addresses of organizations 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 projects;

(5) a description of the success of the projects in 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. 3032f)

**SEC. 418. NATIVE AMERICAN PROGRAMS.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Assistant Secretary 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 Assistant Secretary shall make such grants or enter into such contracts for periods of not less than 3 years.

(2) FUNCTIONS.—

(A) IN GENERAL.—Each Resource Center that receives funds under this section shall—

(i) gather information;

(ii) perform research;

(iii) provide for the dissemination of results of the research; and

(iv) provide technical assistance and training to entities that provide services to Native Americans who are older individuals.

(B) AREAS OF CONCERN.—In conducting the functions described in subparagraph (A), 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—

(i) health problems;

(ii) long-term care, including in-home care;

(iii) elder abuse; and

(iv) other problems and issues that the Assistant Secretary determines are of particular importance to Native Americans who are older individuals.

(3) PREFERENCE.—In awarding grants and entering into contracts under paragraph (1), the Assistant Secretary shall give preference to institutions of higher education that have conducted research on, and assessments of, the characteristics and needs of Native Americans who are older individuals.

(4) CONSULTATION.—In determining the type of information to be sought from, and activities to be performed by, Resource Centers, the Assistant Secretary shall consult with the

Director of the Office for American Indian, Alaskan Native, and Native Hawaiian Aging and with national organizations with special expertise in serving Native Americans who are older individuals.

(5) **ELIGIBLE ENTITIES.**—To be eligible to receive a grant or enter into a contract under paragraph (1), an entity shall be an institution of higher education with experience conducting research and assessment on the needs of older individuals.

(6) **REPORT TO CONGRESS.**—The Assistant Secretary, 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.

(b) **TRAINING GRANTS.**—The Assistant Secretary shall make grants and enter into contracts to provide in-service training opportunities and courses of instruction on aging to Indian tribes through public or nonprofit Indian aging organizations and to provide annually a national meeting to train directors of programs under this title.

(42 U.S.C. 3032g)

**SEC. 419. MULTIDISCIPLINARY CENTERS.**

(a) **PROGRAM AUTHORIZED.**—The Assistant Secretary 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, minority populations, and older individuals residing in rural areas).

(b) **USE OF FUNDS.**—

(1) **IN GENERAL.**—The centers described in subsection (a) shall conduct research and policy analysis and function as a technical resource for the Assistant Secretary, policymakers, service providers, and Congress.

(2) **MULTIDISCIPLINARY CENTERS.**—The multidisciplinary centers of gerontology described in subsection (a) shall—

(A) recruit and train personnel;

(B) conduct basic and applied research toward the development of information related to aging;

(C) stimulate the incorporation of information on aging into the teaching of biological, behavioral, and social sciences at colleges and universities;

(D) 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;

(E) serve as a repository of information and knowledge on aging;

(F) provide consultation and information to public and voluntary organizations, including State agencies and area agencies on aging, which serve the needs of older individ-



uals in planning and developing services provided under other provisions of this Act; and

(G) if appropriate, provide information relating to assistive technology.

(c) DATA.—

(1) IN GENERAL.—Each center that receives a grant under subsection (a) shall provide data to the Assistant Secretary on the projects and activities carried out with funds received under such subsection.

(2) INFORMATION INCLUDED.—Such data described in paragraph (1) shall include—

(A) information on the number of personnel trained;

(B) information on the number of older individuals served;

(C) information on the number of schools assisted; and

(D) other information that will facilitate achieving the objectives of this section.

(42 U.S.C. 3032h)

**SEC. 420. DEMONSTRATION AND SUPPORT PROJECTS FOR LEGAL ASSISTANCE FOR OLDER INDIVIDUALS.**

(a) PROGRAM AUTHORIZED.—The Assistant Secretary 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) ASSURANCES.—Any grants or contracts made under subsection (a)(2) shall contain assurances that the requirements of section 307(a)(11) are met.

(c) ASSISTANCE.—To carry out subsection (a)(1), the Assistant Secretary shall make grants to or enter into contracts with national nonprofit organizations experienced in providing support and technical assistance on a nationwide basis to States, area agencies on aging, legal assistance providers, ombudsmen, elder abuse prevention programs, and other organizations interested in the legal rights of older individuals.

(42 U.S.C. 3032i)

**SEC. 421. OMBUDSMAN AND ADVOCACY DEMONSTRATION PROJECTS.**

(a) PROGRAM AUTHORIZED.—The Assistant Secretary shall award grants to not fewer than three and not more than 10 States to conduct demonstrations and evaluate cooperative projects between the State long-term care ombudsman program, legal assistance agencies, and the State protection and advocacy systems for

individuals with developmental disabilities and individuals with mental illness, established under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.).

(b) **REPORT.**—The Assistant Secretary shall prepare and submit to Congress a report containing the results of the evaluation required by subsection (a). Such report shall contain such recommendations as the Assistant Secretary determines to be appropriate.

(42 U.S.C. 3032j)

## **PART B—GENERAL PROVISIONS**

### **SEC. 431. PAYMENT OF GRANTS.**

(a) **CONTRIBUTIONS.**—To the extent the Assistant Secretary determines a contribution to be appropriate, the Assistant Secretary 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.**—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 advance or by way of reimbursement, and in such installments and on such conditions, as the Assistant Secretary may determine.

(c) **CONSULTATION.**—The Assistant Secretary shall make no grant or contract under this title in any State that has established or designated a State agency for purposes of title III unless the Assistant Secretary—

- (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. 3033)

### **SEC. 432. RESPONSIBILITIES OF ASSISTANT SECRETARY.**

(a) **IN GENERAL.**—The Assistant Secretary 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) **REPORT.**—

(1) **IN GENERAL.**—Not later than January 1 following each fiscal year, the Assistant Secretary 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) **CONTENTS.**—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) EVALUATIONS.—
- (1) IN GENERAL.—The Assistant Secretary shall establish by regulation and implement a process to evaluate the results of projects and programs carried out under this title.
  - (2) RESULTS.—The Assistant Secretary shall—
    - (A) make available to the public the results of 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. 3033a)

## **TITLE V—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS<sup>1</sup>**

### **SEC. 501. SHORT TITLE.**

This title may be cited as the “Older American Community Service Employment Act”.

(42 U.S.C. 3056 note)

### **SEC. 502. OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM.**

(a)(1) In order to foster and promote useful part-time opportunities in community service activities for unemployed low-income persons who are 55 years or older and who have poor employment prospects, and in order to foster individual economic self-sufficiency and to increase the number of persons who may enjoy the benefits of unsubsidized employment in both the public and private sectors, the Secretary of Labor (hereafter in this title referred to as the “Secretary”) is authorized to establish an older American community service employment program.

(2) Amounts appropriated to carry out this title shall be used only to carry out the provisions contained in this title.

(b)(1) In order to carry out the provisions of this title, the Secretary is authorized to enter into agreements, subject to section 514, with State and national public and private nonprofit agencies and 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

<sup>1</sup>The style of the title heading does not conform to other title headings. See the amendment made by section 501 of the Older Americans Act Amendments of 2000 (P.L. 106–501; 114 Stat. 2267).

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 this section, 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 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)(i) will provide employment for eligible individuals in the community in which such individuals reside, or in nearby communities; or

(ii) if such project is carried out by a tribal organization that enters into an agreement under this subsection or receives assistance from a State that enters into such an agreement, will provide employment for such individuals, including those who are Indians residing on an Indian reservation, as the term is defined in section 2601(2) of the Energy Policy Act of 1992 (25 U.S.C. 3501(2));

(C) will employ eligible individuals in service 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 result 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 participating in a one-stop delivery system as established under section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c)) and 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 persons employed in community service and other 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 persons 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 the 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 the participants' skills and talents and their needs for services, except to the extent such project has, for the participant involved, recently prepared an assessment of such skills and talents, and such needs, pursuant to another employment or training program (such as a program under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), or part A of title IV of the Social Security Act (42 U.S.C. 601 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, developed as a result of the assessment and service strategy 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 provide appropriate services for participants through the one-stop delivery system as established under section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C.

2864(c)), and will be involved in the planning and operations of such system pursuant to a memorandum of understanding with the local workforce investment board in accordance with section 121(c) of such Act (29 U.S.C. 2841(c));

(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;

(Q) will provide to the Secretary the description and information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998; and

(R) will ensure that entities carrying out activities under the project, including State offices, local offices, subgrantees, subcontractors, or other affiliates of such organization or agency shall receive an amount of the administration cost allocation that is sufficient for the administrative activities under the project to be carried out by such State office, local office, subgrantee, subcontractor, or other affiliate.

(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 labor organizations, groups representing business and industry and workers as well as to individual employers, where appropriate.

(4)(A) An assessment and service strategy provided for an eligible individual under this title shall satisfy any condition for an assessment and service strategy or individual employment plan for an adult participant under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.), in order to determine whether such individual qualifies for intensive or training services described in section 134(d) of such Act (29 U.S.C. 2864(d)), in accordance with such Act.

(B) An assessment and service strategy or individual employment plan provided for an adult participant under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.) shall satisfy any condition for an assessment and service strategy for an eligible individual under this title.

(c)(1) The Secretary is authorized to pay a share, but not to exceed 90 percent of the cost of any project which is the subject of an agreement entered into under subsection (b) of this section, 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 any fiscal year 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 grantee 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 grantee 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 exceeds 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.

(4) The costs of administration are the costs, both personnel and non-personnel and both direct and indirect, associated with the following:

(A) The costs of performing overall general administrative functions and providing for the coordination of functions, such as—

(i) accounting, budgeting, financial, and cash management functions;

(ii) procurement and purchasing functions;

(iii) property management functions;

(iv) personnel management functions;

(v) payroll functions;

(vi) coordinating the resolution of findings arising from audits, reviews, investigations, and incident reports;

(vii) audit functions;

(viii) general legal services functions; and

(ix) developing systems and procedures, including information systems, required for these administrative functions.

(B) The costs of performing oversight and monitoring responsibilities related to administrative functions.

(C) The costs of goods and services required for administrative functions of the program, including goods and services such as rental or purchase of equipment, utilities, office supplies, postage, and rental and maintenance of office space.

(D) The travel costs incurred for official business in carrying out administrative activities or overall management.

(E) The costs of information systems related to administrative functions (for example, personnel, procurement, purchasing, property management, accounting, and payroll systems) including the purchase, systems development, and operating costs of such systems.

(5) To the extent practicable, an entity that carries out a project under this title shall provide for the payment of the expenses described in paragraph (4) from non-Federal sources.

(6)(A) Amounts made available for a project under this title that are not used to pay for the cost of administration shall be used to pay for the costs of programmatic activities, including—

(i) enrollee wages and fringe benefits (including physical examinations);

(ii) enrollee training, which may be provided prior to or subsequent to placement, including the payment of reasonable costs of instructors, classroom rental, training supplies, materials, equipment, and tuition, and which may be provided on the job, in a classroom setting, or pursuant to other appropriate arrangements;

(iii) job placement assistance, including job development and job search assistance;

(iv) enrollee supportive services to assist an enrollee to successfully participate in a project under this title, including the payment of reasonable costs of transportation, health care and medical services, special job-related or personal counseling, incidentals (such as work shoes, badges, uniforms, eyeglasses, and tools), child and adult care, temporary shelter, and followup services; and

(v) outreach, recruitment and selection, intake, orientation, and assessments.

(B) Not less than 75 percent of the funds made available through a grant made under this title shall be used to pay wages and benefits for older individuals who are employed under projects carried out under this title.

(d) Whenever a grantee conducts a project within a planning and service area in a State, such grantee 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, 90 days prior to undertaking the project, for review and public comment according to guidelines the Secretary shall issue to assure efficient and effective coordination of programs under this title.

(e)(1) The Secretary, in addition to any other authority contained in this title, shall conduct projects designed to assure second career training and the placement of eligible individuals in employ-



ment opportunities with private business concerns. The Secretary shall enter into such agreements with States, public agencies, non-profit private organizations, and private business concerns as may be necessary, to conduct the projects authorized by this subsection to assure that placement and training. The Secretary, from amounts reserved under section 506(a)(1) 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 in jobs reflecting new technological skills; and

(C) require the coordination of projects carried out under such agreements, with the programs carried out under title I of the Workforce Investment Act of 1998.

(f) The Secretary shall, on a regular basis, carry out evaluations of the activities authorized under this title, which may include but are not limited to projects described in subsection (e).

(42 U.S.C. 3056)

**SEC. 503. ADMINISTRATION.**

(a) STATE SENIOR EMPLOYMENT SERVICES COORDINATION PLAN.—

(1) GOVERNOR SUBMITS PLAN.—The Governor of each State shall submit annually to the Secretary a State Senior Employment Services Coordination Plan, containing such provisions as the Secretary may require, consistent with the provisions of this title, including a description of the process used to ensure the participation of individuals described in paragraph (2).

(2) RECOMMENDATIONS.—In developing the State plan prior to its submission to the Secretary, the Governor shall obtain the advice and recommendations of—

(A) individuals representing the State and area agencies on aging in the State, and the State and local workforce investment boards established under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

(B) individuals representing public and private non-profit agencies and organizations providing employment services, including each grantee operating a project under this title in the State; and

(C) individuals representing social service organizations providing services to older individuals, grantees under title III of this Act, affected communities, underserved older individuals, community-based organizations serving the needs of older individuals, business organizations, and labor organizations.

(3) COMMENTS.—Any State plan submitted by a Governor in accordance with paragraph (1) shall be accompanied by copies of public comments relating to the plan received pursuant to paragraph (4) and a summary thereof.

(4) PLAN PROVISIONS.—The State Senior Employment Services Coordination Plan shall identify and address—

(A) the relationship that the number of eligible individuals in each area bears to the total number of eligible individuals, respectively, in that State;

(B) the relative distribution of individuals residing in rural and urban areas within the State;

(C) the relative distribution of—

(i) eligible individuals who are individuals with greatest economic need;

(ii) eligible individuals who are minority individuals; and

(iii) eligible individuals who are individuals with greatest social need;

(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)(1) The Secretary shall monitor projects receiving financial assistance under this title to determine whether the grantees are complying with the provisions of and regulations issued under this title, including compliance with the statewide planning, consultation, and coordination provisions under this title.

(2) Each grantee receiving funds under this title shall comply with the applicable uniform cost principles and appropriate administrative requirements for grants and contracts that are applicable to the type of entity receiving funds, as issued as circulars or rules of the Office of Management and Budget.

(3) Each grantee described in paragraph (2) shall prepare and submit a report in such manner and containing such information as the Secretary may require regarding activities carried out under this title.

(4) Each grantee described in paragraph (2) shall keep records that—

(A) are sufficient to permit the preparation of reports required pursuant to this title;

(B) are sufficient to permit the tracing of funds to a level of expenditure adequate to ensure that the funds have not been spent unlawfully; and

(C) contain any other information that the Secretary determines to be appropriate.

(g) The Secretary shall establish by regulation and implement a process to evaluate the performance of projects and services, pursuant to section 513, carried out under this title. The Secretary shall report to Congress and make available to the public the results of each such evaluation and use such evaluation to improve services delivered, or the operation of projects carried out under this title.

(42 U.S.C. 3056a)

**SEC. 504. PARTICIPANTS NOT FEDERAL EMPLOYEES.**

(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 carrier 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)

**SEC. 505. INTERAGENCY COOPERATION.**

(a) The Secretary shall consult with, and obtain the written views of, the Assistant Secretary for Aging in the Department of Health and Human Services 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)(1) The Secretary shall promote and coordinate carrying out projects under this title jointly with programs, projects, or activities under other Acts, especially activities provided under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), including activities provided through one-stop delivery systems established under section 134(c) of such Act (29 U.S.C. 2864(c)), 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 workforce investment activities in which eligible individuals may participate that are carried out under the Carl D. Perkins Vocational and Technical Education Act of 1998.

(42 U.S.C. 3056c)

**SEC. 506. DISTRIBUTION OF ASSISTANCE.****(a) RESERVATIONS.—**

(1) **RESERVATION FOR PRIVATE EMPLOYMENT PROJECTS.—**  
From sums appropriated under this title for each fiscal year, the Secretary shall first reserve not more than 1.5 percent of the total amount of such sums for the purpose of entering into

agreements under section 502(e), relating to improved transition to private employment.

(2) RESERVATION FOR TERRITORIES.—From sums appropriated under this title for each fiscal year, the Secretary shall reserve 0.75 percent of the total amount of such sums, of which—

(A) Guam, American Samoa, and the United States Virgin Islands shall each receive 30 percent; and

(B) the Commonwealth of the Northern Mariana Islands shall receive 10 percent.

(3) RESERVATION FOR ORGANIZATIONS.—The Secretary shall reserve such sums as may be necessary for national grants 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 to older Pacific Island and Asian Americans.

(b) STATE ALLOTMENTS.—The allotment for each State shall be the sum of the amounts allotted for national grants in such State under subsection (d) and for the grant to such State under subsection (e).

(c) DIVISION BETWEEN NATIONAL GRANTS AND GRANTS TO STATES.—From the sums appropriated to carry out this title for any fiscal year that remain after amounts are reserved under paragraphs (1), (2), and (3) of subsection (a), the Secretary shall divide the remainder between national grants and grants to States, as follows:

(1) RESERVATION OF FUNDS FOR FISCAL YEAR 2000 LEVEL OF ACTIVITIES.—The Secretary shall reserve the amounts necessary to maintain the fiscal year 2000 level of activities supported by public and private nonprofit agency and organization grantees that operate under this title under national grants from the Secretary, and the fiscal year 2000 level of activities supported by State grantees under this title, in proportion to their respective fiscal year 2000 levels of activities. In any fiscal year for which the appropriations are insufficient to provide the full amounts so required, then such amounts shall be reduced proportionally.

(2) FUNDING IN EXCESS OF FISCAL YEAR 2000 LEVEL OF ACTIVITIES.—

(A) UP TO \$35,000,000.—From the amounts remaining after the application of paragraph (1), the portion of such remaining amounts up to the sum of \$35,000,000 shall be divided so that 75 percent shall be provided to State grantees and 25 percent shall be provided to public and private nonprofit agency and organization grantees that operate under this title under national grants from the Secretary.

(B) OVER \$35,000,000.—Any amounts remaining after the application of subparagraph (A) shall be divided so that 50 percent shall be provided to State grantees and 50 percent shall be provided to public and private nonprofit agency and organization grantees that operate under this title under national grants from the Secretary.

(d) ALLOTMENTS FOR NATIONAL GRANTS.—From the sums provided for national grants under subsection (c), the Secretary shall allot for public and private nonprofit agency and organization grantees that operate under this title under national grants from the Secretary in each State, an amount that bears the same ratio to such sums as the product of the number of persons aged 55 or over in the State and the allotment percentage of such State bears to the sum of the corresponding product for all States, except as follows:

(1) MINIMUM ALLOTMENT.—No State shall be provided an amount under this subsection that is less than  $\frac{1}{2}$  of 1 percent of the amount provided under subsection (c) for public and private nonprofit agency and organization grantees that operate under this title under national grants from the Secretary in all of the States.

(2) HOLD HARMLESS.—If the amount provided under subsection (c) is—

(A) equal to or less than the amount necessary to maintain the fiscal year 2000 level of activities, allotments for public and private nonprofit agency and organization grantees that operate under this title under national grants from the Secretary in each State shall be proportional to their fiscal year 2000 level of activities; or

(B) greater than the amount necessary to maintain the fiscal year 2000 level of activities, no State shall be provided a percentage increase above the fiscal year 2000 level of activities for public and private nonprofit agency and organization grantees that operate under this title under national grants from the Secretary in the State that is less than 30 percent of such percentage increase above the fiscal year 2000 level of activities for public and private nonprofit agency and organization grantees that operate under this title under national grants from the Secretary in all of the States.

(3) REDUCTION.—Allotments for States not affected by paragraphs (1) and (2)(B) of this subsection shall be reduced proportionally to satisfy the conditions in such paragraphs.

(e) ALLOTMENTS FOR GRANTS TO STATES.—From the sums provided for grants to States under subsection (c), the Secretary shall allot for the State grantee in each State an amount that bears the same ratio to such sums as the product of the number of persons aged 55 or over in the State and the allotment percentage of such State bears to the sum of the corresponding product for all States, except as follows:

(1) MINIMUM ALLOTMENT.—No State shall be provided an amount under this subsection that is less than  $\frac{1}{2}$  of 1 percent of the amount provided under subsection (c) for State grantees in all of the States.

(2) HOLD HARMLESS.—If the amount provided under subsection (c) is—

(A) equal to or less than the amount necessary to maintain the fiscal year 2000 level of activities, allotments for State grantees in each State shall be proportional to their fiscal year 2000 level of activities; or

(B) greater than the amount necessary to maintain the fiscal year 2000 level of activities, no State shall be provided a percentage increase above the fiscal year 2000 level of activities for State grantees in the State that is less than 30 percent of such percentage increase above the fiscal year 2000 level of activities for State grantees in all of the States.

(3) REDUCTION.—Allotments for States not affected by paragraphs (1) and (2)(B) of this subsection shall be reduced proportionally to satisfy the conditions in such paragraphs.

(f) ALLOTMENT PERCENTAGE.—For the purposes of subsections (d) and (e)—

(1) 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: (A) the allotment percentage shall in no case be more than 75 percent or less than 33 percent; and (B) the allotment percentage for the District of Columbia and the Commonwealth of Puerto Rico shall be 75 percent;

(2) the number of persons aged 55 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

(3) for the purpose of determining the allotment percentage, the term “United States” means the 50 States and the District of Columbia.

(g) DEFINITIONS.—In this section:

(1) COST PER AUTHORIZED POSITION.—The term “cost per authorized position” means the sum of—

(A) the hourly minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) (as amended), multiplied by the number of hours equal to the product of 21 hours and 52 weeks;

(B) an amount equal to 11 percent of the amount specified under subparagraph (A), for the purpose of covering Federal payments for fringe benefits; and

(C) an amount determined by the Secretary, for the purpose of covering Federal payments for the remainder of all other program and administrative costs.

(2) FISCAL YEAR 2000 LEVEL OF ACTIVITIES.—The term “fiscal year 2000 level of activities” means—

(A) with respect to public and private nonprofit agency and organization grantees that operate under this title under national grants from the Secretary, their level of activities for fiscal year 2000, or the amount remaining after the application of section 514(e); and

(B) with respect to State grantees, their level of activities for fiscal year 2000, or the amount remaining after the application of section 514(f).

(3) GRANTS TO STATES.—The term “grants to States” means grants under this title to the States from the Secretary.

(4) LEVEL OF ACTIVITIES.—The term “level of activities” means the number of authorized positions multiplied by the cost per authorized position.

(5) NATIONAL GRANTS.—The term “national grants” means grants to public and private nonprofit agency and organization grantees that operate under this title under national grants from the Secretary.

(6) STATE.—The term “State” does not include Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands.

(42 U.S.C. 3056d)

**SEC. 507. EQUITABLE DISTRIBUTION.**

(a) INTERSTATE ALLOCATION.—The Secretary, in awarding grants and contracts under section 506, 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.

(b) INTRASTATE ALLOCATION.—The amount allocated for projects within each State under section 506 shall be allocated among areas within the State in an equitable manner, taking into consideration the State priorities set out in the State plan pursuant to section 503(a).

(42 U.S.C. 3056e)

**SEC. 508. REPORT.**

In order to carry out the Secretary’s responsibilities for reporting in section 503(g), the Secretary shall require the State agency for each State receiving funds under this title to prepare and submit a report at the beginning of each fiscal year on such State’s compliance with section 507(b). 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 allocated to each such project under section 506.

(42 U.S.C. 3056f)

**SEC. 509. EMPLOYMENT ASSISTANCE AND FEDERAL HOUSING AND FOOD STAMP PROGRAMS.**

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. ELIGIBILITY FOR WORKFORCE INVESTMENT ACTIVITIES.**

Eligible individuals under this title may be deemed by local workforce investment boards established under title I of the Workforce Investment Act of 1998 to satisfy the requirements for receiving services under such title 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)

**SEC. 512. COORDINATION WITH THE WORKFORCE INVESTMENT ACT OF 1998.**

(a) **PARTNERS.**—Grantees under this title shall be one-stop partners as described in subparagraphs (A) and (B)(vi) of section 121(b)(1) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(b)(1)) in the one-stop delivery system established under section 134(c) of such Act (29 U.S.C. 2864(c)) for the appropriate local workforce investment areas, and shall carry out the responsibilities relating to such partners.

(b) **COORDINATION.**—In local workforce investment areas where more than one grantee under this title provides services, the grantees shall coordinate their activities related to the one-stop delivery system, and grantees shall be signatories of the memorandum of understanding established under section 121(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2841(c)).

(42 U.S.C. 3056j)

**SEC. 513. PERFORMANCE.**

(a) **MEASURES.**—

(1) **ESTABLISHMENT OF MEASURES.**—The Secretary shall establish, in consultation with grantees, subgrantees, and host agencies under this title, States, older individuals, area agencies on aging, and other organizations serving older individuals, performance measures for each grantee for projects and services carried out under this title.

(2) **CONTENT.**—

(A) **COMPOSITION OF MEASURES.**—The performance measures as established by the Secretary and described in paragraph (1) shall consist of indicators of performance and levels of performance applicable to each indicator. The measures shall be designed to promote continuous improvement in performance.

(B) **ADJUSTMENT.**—The levels of performance described in subparagraph (A) applicable to a grantee shall be adjusted only with respect to the following factors:

(i) High rates of unemployment, poverty, or welfare reciprocity in the areas served by a grantee, relative to other areas of the State or Nation.

(ii) Significant downturns in the areas served by the grantee or in the national economy.

(iii) Significant numbers or proportions of enrollees with one or more barriers to employment served by a grantee relative to grantees serving other areas of the State or Nation.

(C) **PLACEMENT.**—For all grantees, the Secretary shall establish a measure of performance of not less than 20 percent (adjusted in accordance with subparagraph (B)) for placement of enrollees into unsubsidized public or private employment as defined in subsection (c)(2).



(3) PERFORMANCE EVALUATION OF PUBLIC OR PRIVATE NON-PROFIT AGENCIES AND ORGANIZATIONS.—The Secretary shall annually establish national performance measures for each public or private nonprofit agency or organization that is a grantee under this title, which shall be applicable to the grantee without regard to whether such grantee operates the program directly or through contracts, grants, or agreements with other entities. The performance of the grantees with respect to such measures shall be evaluated in accordance with section 514(e)(1) regarding performance of the grantees on a national basis, and in accordance with section 514(e)(3) regarding the performance of the grantees in each State.

(4) PERFORMANCE EVALUATION OF STATES.—The Secretary shall annually establish performance measures for each State that is a grantee under this title, which shall be applicable to the State grantee without regard to whether such grantee operates the program directly or through contracts, grants, or agreements with other entities. The performance of the State grantees with respect to such measures shall be evaluated in accordance with section 514(f).

(5) LIMITATION.—An agreement to be evaluated on the performance measures shall be a requirement for application for, and a condition of, all grants authorized by this title.

(b) REQUIRED INDICATORS.—The indicators described in subsection (a) shall include—

(1) the number of persons served, with particular consideration given to individuals with greatest economic need, greatest social need, or poor employment history or prospects, and individuals who are over the age of 60;

(2) community services provided;

(3) placement into and retention in unsubsidized public or private employment;

(4) satisfaction of the enrollees, employers, and their host agencies with their experiences and the services provided; and

(5) any additional indicators of performance that the Secretary determines to be appropriate to evaluate services and performance.

(c) DEFINITIONS OF INDICATORS.—

(1) IN GENERAL.—The Secretary, after consultation with national and State grantees, representatives of business and labor organizations, and providers of services, shall, by regulation, issue definitions of the indicators of performance described in subsection (b).

(2) DEFINITIONS OF CERTAIN TERMS.—In this section:

(A) PLACEMENT INTO PUBLIC OR PRIVATE UNSUBSIDIZED EMPLOYMENT.—The term “placement into public or private unsubsidized employment” means full- or part-time paid employment in the public or private sector by an enrollee under this title for 30 days within a 90-day period without the use of funds under this title or any other Federal or State employment subsidy program, or the equivalent of such employment as measured by the earnings of an enrollee through the use of wage records or other appropriate methods.

(B) **RETENTION IN PUBLIC OR PRIVATE UNSUBSIDIZED EMPLOYMENT.**—The term “retention in public or private unsubsidized employment” means full- or part-time paid employment in the public or private sector by an enrollee under this title for 6 months after the starting date of placement into unsubsidized employment without the use of funds under this title or any other Federal or State employment subsidy program.

(d) **CORRECTIVE EFFORTS.**—A State or other grantee that does not achieve the established levels of performance on the performance measures shall submit to the Secretary, for approval, a plan of correction as described in subsection (e) or (f) of section 514 to achieve the established levels of performance.

(42 U.S.C. 3056k)

**SEC. 514. COMPETITIVE REQUIREMENTS RELATING TO GRANT AWARDS.**

(a) **PROGRAM AUTHORIZED.**—In accordance with section 502(b), the Secretary shall award grants to eligible applicants to carry out projects under this title for a period of 1 year, except that, after the promulgation of regulations for this title and the establishment of the performance measures required by section 513(a), the Secretary shall award grants for a period of not to exceed 3 years.

(b) **ELIGIBLE APPLICANTS.**—An applicant shall be eligible to receive a grant under subsection (a) in accordance with section 502(b)(1), and subsections (c) and (d).

(c) **CRITERIA.**—The Secretary shall select the eligible applicants to receive grants under subsection (a) based on the following:

(1) The applicant’s ability to administer a program that serves the greatest number of eligible individuals, giving particular consideration to individuals with greatest economic need, greatest social need, poor employment history or prospects, and over the age of 60.

(2) The applicant’s ability to administer a program that provides employment for eligible individuals in the communities in which such individuals reside, or in nearby communities, that will contribute to the general welfare of the community.

(3) The applicant’s ability to administer a program that moves eligible individuals into unsubsidized employment.

(4) The applicant’s ability to move individuals with multiple barriers to employment into unsubsidized employment.

(5) The applicant’s ability to coordinate with other organizations at the State and local level.

(6) The applicant’s plan for fiscal management of the program to be administered with funds received under this section.

(7) Any additional criteria that the Secretary deems appropriate in order to minimize disruption for current enrollees.

(d) **RESPONSIBILITY TESTS.**—

(1) **IN GENERAL.**—Before final selection of a grantee, the Secretary shall conduct a review of available records to assess the applicant’s overall responsibility to administer Federal funds.

(2) REVIEW.—As part of the review described in paragraph (1), the Secretary may consider any information, including the organization's history with regard to the management of other grants.

(3) FAILURE TO SATISFY TEST.—The failure to satisfy any one responsibility test that is listed in paragraph (4), except for those listed in subparagraphs (A) and (B) of such paragraph, does not establish that the organization is not responsible unless such failure is substantial or persistent (for 2 or more consecutive years).

(4) TEST.—The responsibility tests include review of the following factors:

(A) Efforts by the organization to recover debts, after three demand letters have been sent, that are established by final agency action and have been unsuccessful, or that there has been failure to comply with an approved repayment plan.

(B) Established fraud or criminal activity of a significant nature within the organization.

(C) Serious administrative deficiencies identified by the Secretary, such as failure to maintain a financial management system as required by Federal regulations.

(D) Willful obstruction of the audit process.

(E) Failure to provide services to applicants as agreed to in a current or recent grant or to meet applicable performance measures.

(F) Failure to correct deficiencies brought to the grantee's attention in writing as a result of monitoring activities, reviews, assessments, or other activities.

(G) Failure to return a grant closeout package or outstanding advances within 90 days of the grant expiration date or receipt of closeout package, whichever is later, unless an extension has been requested and granted.

(H) Failure to submit required reports.

(I) Failure to properly report and dispose of Government property as instructed by the Secretary.

(J) Failure to have maintained effective cash management or cost controls resulting in excess cash on hand.

(K) Failure to ensure that a subrecipient complies with its Office of Management and Budget Circular A-133 audit requirements specified at section 667.200(b) of title 20, Code of Federal Regulations.

(L) Failure to audit a subrecipient within the required period.

(M) Final disallowed costs in excess of 5 percent of the grant or contract award if, in the judgment of the grant officer, the disallowances are egregious findings.

(N) Failure to establish a mechanism to resolve a subrecipient's audit in a timely fashion.

(5) DETERMINATION.—Applicants that are determined to be not responsible shall not be selected as grantees.

(6) DISALLOWED COSTS.—Interest on disallowed costs shall accrue in accordance with the Debt Collection Improvement Act of 1996.

(e) NATIONAL PERFORMANCE MEASURES AND COMPETITION FOR PUBLIC AND PRIVATE NONPROFIT AGENCIES AND ORGANIZATIONS.—

(1) IN GENERAL.—Not later than 120 days after the end of each program year, the Secretary shall determine if each public or private nonprofit agency or organization that is a grantee has met the national performance measures established pursuant to section 513(a)(3).

(2) TECHNICAL ASSISTANCE AND CORRECTIVE ACTION PLAN.—

(A) IN GENERAL.—If the Secretary determines that a grantee fails to meet the national performance measures for a program year, the Secretary shall provide technical assistance and require such organization to submit a corrective action plan not later than 160 days after the end of the program year.

(B) CONTENT.—The plan submitted under subparagraph (A) shall detail the steps the grantee will take to meet the national performance measures in the next program year.

(C) AFTER SECOND YEAR OF FAILURE.—If a grantee fails to meet the national performance measures for a second consecutive program year, the Secretary shall conduct a national competition to award, for the first full program year following the determination (minimizing, to the extent possible, the disruption of services provided to enrollees), an amount equal to 25 percent of the funds awarded to the grantee for such year.

(D) COMPETITION AFTER THIRD CONSECUTIVE YEAR OF FAILURE.—If a grantee fails to meet the national performance measures for a third consecutive program year, the Secretary shall conduct a national competition to award the amount of the grant remaining after deduction of the portion specified in subparagraph (C) for the first full program year following the determination. The eligible applicant that receives the grant through the national competition shall continue service to the geographic areas formerly served by the grantee that previously received the grant.

(3) COMPETITION REQUIREMENTS FOR PUBLIC AND PRIVATE NONPROFIT AGENCIES AND ORGANIZATIONS IN A STATE.—

(A) IN GENERAL.—In addition to the actions required under paragraph (2), the Secretary shall take corrective action if the Secretary determines at the end of any program year that, despite meeting the established national performance measures, a public or private nonprofit agency or organization that is a grantee has attained levels of performance 20 percent or more below the national performance measures with respect to the project carried out in a State and has failed to meet the performance measures as established by the Secretary for the State grantee in such State, and there are not factors, such as the factors described in section 513(a)(2)(B), or size of the project, that justify the performance.

(B) FIRST YEAR OF FAILURE.—After the first program year of failure to meet the performance criteria described

in subparagraph (A), the Secretary shall require a corrective action plan, and may require the transfer of the responsibility for the project to other grantees, provide technical assistance, and take other appropriate actions.

(C) **SECOND YEAR OF FAILURE.**—After the second consecutive program year of failure to meet the performance criteria described in subparagraph (A), the corrective actions to be taken by the Secretary may include the transfer of the responsibility for a portion or all of the project to a State or public or private nonprofit agency or organization, or a competition for a portion or all of the funds to carry out such project among all eligible entities that meet the responsibility tests under section 514(d) except for the grantee that is the subject of the corrective action.

(D) **THIRD YEAR OF FAILURE.**—After the third consecutive program year of failure to meet the performance criteria described in subparagraph (A), the Secretary shall conduct a competition for the funds to carry out such project among all eligible entities that meet the responsibility tests under section 514(d) except for the grantee that is the subject of the corrective action.

(4) **REQUEST BY GOVERNOR.**—Upon the request of the Governor of a State for a review of the performance of a public or private nonprofit agency or organization within the State, the Secretary shall undertake such a review in accordance with the criteria described in paragraph (3)(A). If the performance of such grantee is not justified under such criteria, the Secretary shall take corrective action in accordance with paragraph (3).

(f) **PERFORMANCE MEASURES AND COMPETITION FOR STATES.**—

(1) **IN GENERAL.**—Not later than 120 days after the end of the program year, the Secretary shall determine if a State grantee has met the performance measures established pursuant to section 513(a)(4).

(2) **TECHNICAL ASSISTANCE AND CORRECTIVE ACTION PLAN.**—If a State that receives a grant fails to meet the performance measures for a program year, the Secretary shall provide technical assistance and require the State to submit a corrective action plan not later than 160 days after the end of the program year.

(3) **CONTENT.**—The plan described in paragraph (2) shall detail the steps the State will take to meet the standards.

(4) **FAILURE TO MEET PERFORMANCE MEASURES FOR SECOND AND THIRD YEARS.**—

(A) **AFTER SECOND YEAR OF FAILURE.**—If a State fails to meet the performance measures for a second consecutive program year, the Secretary shall provide for the conduct by the State of a competition to award, for the first full program year following the determination (minimizing, to the extent possible, the disruption of services provided to enrollees), an amount equal to 25 percent of the funds available to the State for such year.

(B) **AFTER THIRD YEAR OF FAILURE.**—If the State fails to meet the performance measures for a third consecutive program year, the Secretary shall provide for the conduct

by the State of a competition to award the funds allocated to the State for the first full program year following the Secretary's determination that the State has not met the performance measures.

(42 U.S.C. 3056l)

**SEC. 515. AUTHORIZATION OF APPROPRIATIONS.**

(a) There is authorized to be appropriated to carry out this title—

(1) \$475,000,000 for fiscal year 2001 and such sums as may be necessary for fiscal year 2002 through 2005; 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 available for obligation 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.

(c) At the end of the program year, the Secretary may recapture any unexpended funds for the program year, and reobligate such funds within the 2 succeeding program years for—

(1) incentive grants;

(2) technical assistance; or

(3) grants or contracts for any other program under this title.

(42 U.S.C. 3056m)

**SEC. 516. DEFINITIONS.**

In this title:

(1) **COMMUNITY SERVICE.**—The term "community service" means social, health, welfare, and educational services (including 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.

(2) **ELIGIBLE INDIVIDUALS.**—The term "eligible individuals" means an individual who is 55 years old or older, who has a low income (including any such individual whose income is not more than 125 percent of the poverty guidelines established by the Office of Management and Budget), except that, pursuant to regulations prescribed by the Secretary, any such individual

who is 60 years old or older shall have priority for the work opportunities provided for under this title.

(3) PACIFIC ISLAND AND ASIAN AMERICANS.—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.

(4) PROGRAM.—The term “program” means the older American community service employment program established under this title.

(42 U.S.C. 3056n)

## 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.

<sup>1</sup> Error in amendment made by section 171 of Public Law 100-175. Should strike “(a)”.

(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) An Indian tribe represented by an organization specified in subsection (a) shall be eligible for only one grant under this part for any fiscal year. Nothing in this subsection shall preclude an Indian tribe represented by an organization specified in subsection (a) from receiving a grant under section 631.

(c) For the purposes of this part the terms “Indian tribe” and “tribal organization” have the same meaning as in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(42 U.S.C. 3057c)

#### GRANTS AUTHORIZED

SEC. 613. The Assistant Secretary 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 Assistant Secretary which meets such criteria as the Assistant Secretary 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 Assistant Secretary may reasonably require, and comply with such requirements as the Assistant Secretary 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) 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;

(10) 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

(11) 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 approval from the Bureau of Indian Affairs, in order to establish eligibility.

(c)(1) The Assistant Secretary shall approve any application which complies with the provisions of subsection (a).

(2) The Assistant Secretary shall provide waivers and exemptions of the reporting requirements of subsection (a)(3) for applicants that serve Indian populations in geographically isolated areas, or applicants that serve small Indian populations, where the small scale of the project, the nature of the applicant, or other factors make the reporting requirements unreasonable under the circumstances. The Assistant Secretary shall consult with such applicants in establishing appropriate waivers and exemptions.

(3) The Assistant Secretary shall approve any application that complies with the provisions of subsection (a), except that in determining whether an application complies with the requirements of subsection (a)(8), the Assistant Secretary shall provide maximum flexibility to an applicant that seeks to take into account subsistence needs, local customs, and other characteristics that are appropriate to the unique cultural, regional, and geographic needs of the Indian populations to be served.

(4) In determining whether an application complies with the requirements of subsection (a)(12), the Assistant Secretary shall require only that an applicant provide an appropriate narrative

description of the geographic area to be served and an assurance that procedures will be adopted to ensure against duplicate services being provided to the same recipients.

(d) Whenever the Assistant Secretary determines not to approve an application submitted under subsection (a) the Assistant Secretary 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 Assistant Secretary may prescribe.

(e) Whenever the Assistant Secretary 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—

(1) increased by such amount as the Assistant Secretary 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 Assistant Secretary 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 con-

taining 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 Assistant Secretary may make grants to public and nonprofit private organizations to pay all of the costs for the delivery 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 Assistant Secretary which meets such criteria as the Assistant Secretary 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 Assistant Secretary may reasonably require, and comply with such requirements as the Assistant Secretary 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 Assistant Secretary shall approve any application which complies with the provisions of subsection (a).

(c) Whenever the Assistant Secretary determines not to approve an application submitted under subsection (a) the Assistant Secretary 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 Assistant Secretary may prescribe.

(d) Whenever the Assistant Secretary 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—NATIVE AMERICAN CAREGIVER SUPPORT PROGRAM**

**SEC. 631. PROGRAM.**

(a) **IN GENERAL.**—The Assistant Secretary shall carry out a program for making grants to tribal organizations with applications approved under parts A and B, to pay for the Federal share of carrying out tribal programs, to enable the tribal organizations to provide multifaceted systems of the support services described in section 373 for caregivers described in section 373.

(b) **REQUIREMENTS.**—In providing services under subsection (a), a tribal organization shall meet the requirements specified for an area agency on aging and for a State in the provisions of subsections (c), (d), and (e) of section 373 and of section 374. For purposes of this subsection, references in such provisions to a State program shall be considered to be references to a tribal program under this part.

(42 U.S.C. 3057k-11)

### **PART D—GENERAL PROVISIONS**

## ADMINISTRATION

SEC. 641. In establishing regulations for the purpose of part A the Assistant Secretary shall consult with the Secretary of the Interior.

(42 U.S.C. 3057l)

## PAYMENTS

SEC. 642. 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 Assistant Secretary may determine.

(42 U.S.C. 3057m)

**SEC. 643. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this title—

(1) for parts A and B, such sums as may be necessary for fiscal year 2001, and such sums as may be necessary for subsequent fiscal years; and

(2) for part C, \$5,000,000 for fiscal year 2001, and such sums as may be necessary for subsequent fiscal years.

(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 Assistant Secretary, 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, such sums as may be necessary for fiscal year 2001, and such sums as may be necessary for subsequent fiscal years.

(b) PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION.—There are authorized to be appropriated to carry out chapter 3, such sums as may be necessary for fiscal year 2001, and such sums as may be necessary for subsequent fiscal years.

(c) LEGAL ASSISTANCE DEVELOPMENT PROGRAM.—There are authorized to be appropriated to carry out chapter 4, such sums as may be necessary for fiscal year 2001, and such sums as may be necessary for subsequent fiscal years.

(42 U.S.C. 3058a)

##### SEC. 703. ALLOTMENT.

(a) IN GENERAL.—

(1) POPULATION.—In carrying out the program described in section 701, the Assistant Secretary 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 Assistant Secretary 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 and made available to carry out chapter 2, less than the amount allotted to the State under section 304 in fiscal year 2000 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 and made available to carry out chapter 3, less than the amount allotted to the State under section 304 in fiscal year 2000 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 Assistant Secretary 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 Assistant Secretary shall make the amount available to a State that the Assistant Secretary 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 Assistant Secretary finds that any State has failed to carry out this title in accordance with the assurances made and description provided under section 705, the Assistant Secretary shall withhold the allotment of funds to the State. The Assistant Secretary 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.

(42 U.S.C. 3058b)

**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 each of 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; and

(7) 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 (6).

(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 and made available to carry out this chapter, 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 Assistant Secretary 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<sup>1</sup> 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 and not stand to gain financially through an action or potential action brought on behalf of individuals the Ombudsman serves;

(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.

<sup>1</sup>Error in amendment made by section 701 of Public Law 102-375. Should insert a comma.  
January 30, 2001 (12:46 PM)

(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 Assistant Secretary; 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 Ombuds-

man 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 Assistant Secretary, 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<sup>1</sup> procedures for the training of the representatives of the Office, including unpaid volunteers, based on model standards established by the Director of the Office of Long-Term Care Ombudsman Programs, in consultation with representatives of citizen groups, long-term care providers, and the Office, that—

(A) specify a minimum number of hours of initial training;

(B) 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

(C) specify an annual number of hours of in-service training for all designated representatives;

(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) subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000<sup>1</sup>; and

(B) the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

<sup>1</sup>Error in the amendment made by section 704(2)(A)(i) of the Older Americans Act Amendments of 2000 (P.L. 106-501; 114 Stat. 2289) by striking “(A) not later than 1 year after the date of enactment of this title, establish” and inserting “strengthen and update”. The amendment could not be executed because of an incorrect reference to text.

<sup>1</sup>So in law. Probably should read “subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000”. See the amendment made by section 401(b)(9)(D) of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (Public Law 106-402; 114 Stat. 1739).



(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;

(8) coordinate services with State and local law enforcement agencies and courts of competent jurisdiction; and

(9) 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 Assistant Secretary) 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 Assistant Secretary 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 and made available to carry out this chapter, 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 financial 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, State and local law enforcement systems, and courts of competent jurisdiction;

(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, including caregivers described in part E of title III, 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 State and local law enforcement programs, as well as other State and local programs that identify and assist vulnerable older individuals, and services provided by agencies and courts of competent jurisdiction.

(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.

(g) STUDY AND REPORT.—

(1) STUDY.—The Secretary, in consultation with the Department of the Treasury and the Attorney General of the United States, State attorneys general, and tribal and local prosecutors, shall conduct a study of the nature and extent of financial exploitation of older individuals. The purpose of this study would be to define and describe the scope of the problem of financial exploitation of the elderly and to provide an estimate of the number and type of financial transactions considered to constitute financial exploitation faced by older individuals. The study shall also examine the adequacy of current Federal and State legal protections to prevent such exploitation.

(2) REPORT.—Not later than 18 months after the date of the enactment of the Older Americans Act Amendments of 2000, the Secretary shall submit to Congress a report, which shall include—

(A) the results of the study conducted under this subsection; and

(B) recommendations for future actions to combat the financial exploitation of older individuals.

(42 U.S.C. 3058i)

#### **CHAPTER 4—STATE LEGAL ASSISTANCE DEVELOPMENT PROGRAM**

##### **SEC. 731. STATE LEGAL ASSISTANCE DEVELOPMENT.**

A State agency shall provide the services of an individual who shall be known as a State legal assistance developer, and the services of other personnel, sufficient to ensure—

(1) State leadership in securing and maintaining the legal rights of older individuals;

(2) State capacity for coordinating the provision of legal assistance;

(3) 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;

(4) State capacity to promote financial management services to older individuals at risk of conservatorship;

(5) State capacity to assist older individuals in understanding their rights, exercising choices, benefiting from services and opportunities authorized by law, and maintaining the rights of older individuals at risk of guardianship; and

(6) State capacity to improve the quality and quantity of legal services provided to older individuals.

(42 U.S.C. 3058j)

## **Subtitle B—Native American Organization Provisions**

### **SEC. 751. NATIVE AMERICAN PROGRAM.**

(a) ESTABLISHMENT.—The Assistant Secretary, acting through the Director of the Office for 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 Assistant Secretary, at such time, in such manner, and containing such information as the Assistant Secretary 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 such sums as may be necessary for fiscal year 2001, and such sums as may be necessary for subsequent fiscal years.

(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 subtitle A.

(42 U.S.C. 3058bb)

**SEC. 762. ADMINISTRATION.**

A State agency 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 Assistant Secretary may request the technical assistance and cooperation of such Federal entities as may be appropriate.

(b) ASSISTANT SECRETARY.—The Assistant Secretary 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 Assistant Secretary, the Comptroller General of the United States, and any duly authorized representative of the Assistant Secretary 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 and area agencies on aging 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)