Calendar No. 553

104TH CONGRESS
2D SESSION

S. 1643

[Report No. 104–344]

A BILL

To amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1997 through 2001, and for other purposes.

JULY 31, 1996

Reported with an amendment

AUTHENTICATED
U.S. GOVERNMENT
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To amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1997 through 2001, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 26, 1966

Mr. GREGG (for himself, Mrs. KASSEBAUM, and Mr. COATS) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

JULY 31, 1996

Reported by Mrs. KASSEBAUM, with an amendment

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

A BILL

To amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1997 through 2001, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

~~**SECTION 1. SHORT TITLE.**~~

~~This Act may be cited as the "Older Americans Amendments of 1996".~~

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Amendment to the Older American Community Service Employment Act for fiscal year 1996.
Sec. 4. Amendment to the Older Americans Act of 1965.
Sec. 5. Conforming amendments.
Sec. 6. References to preceding fiscal year.
Sec. 7. Issuance of rules.
Sec. 8. Application of amendments.
Sec. 9. Transfer of functions.
Sec. 10. Effective dates.

SEC. 3. AMENDMENT TO THE OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT ACT FOR FISCAL YEAR 1996.

(a) IN GENERAL.—The Older American Community Service Employment Act (42 U.S.C. 3056–3056i) is amended to read as follows:

"TITLE V—SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

"SEC. 501. SHORT TITLE.

"This title may be cited as the 'Older American Community Service Employment Act'.

"SEC. 502. ALLOTMENT OF FUNDS FOR FISCAL YEAR 1996.

"(a) ALLOTMENT.—

"(1) RESERVATION OF FUNDS FOR TRIBAL ORGANIZATIONS.—Of the amount appropriated under section 507 for fiscal year 1996, the Assistant Secretary shall reserve not more than 1.3 percent for

~~making grants under this title to tribal organizations.~~

~~"(2) ALLOTMENT OF FUNDS.—~~

~~"(A) ALLOTMENT.—After reserving funds under paragraph (1), the Assistant Secretary shall allot the remainder of the amount appropriated under section 507 for fiscal year 1996 among the States as follows:~~

~~"(i) IN GENERAL.—The product of the remainder for such fiscal year and the base percentage rate for such fiscal year shall be allotted among the States proportionately based on their respective shares of the funds appropriated for fiscal year 1995 and allotted for the States to carry out title V (as in effect on the day before the date of enactment of the Older Americans Amendments of 1995).~~

~~"(ii) BALANCE.—The balance of the amount appropriated under section 507 for fiscal year 1996 shall be allotted in accordance with subparagraph (C).~~

~~"(B) BASE PERCENTAGE RATES.—For purposes of subparagraph (A)(i), the base per-~~

~~centage rate for fiscal year 1996 shall be 80 percent.~~

~~"(C) ALLOTMENTS BASED ON AGE AND PER CAPITA INCOME.—The balance referred to in subparagraph (A)(ii) shall be allotted as follows:~~

~~"(i) ALLOTMENT.—Subject to clause (ii), each State shall be allotted the amount that bears the same ratio to the balance as the product of the number of individuals 55 years of age or older in the State and the allotment percentage of the State bears to the sum of the corresponding products for all the States.~~

~~"(ii) REDUCTION.—The amounts allotted under clause (i) shall be reduced proportionately to the extent necessary to increase other allotments made under such clause to achieve the following:~~

~~"(I) STATES.—Each State shall be allotted not less than ½ of 1 percent of the balance for the fiscal year for which the determination is made.~~

~~"(II) OTHER JURISDICTIONS.—Guam, American Samoa, the Virgin~~

~~Islands of the United States, and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than ¼ of 1 percent of the balance for the fiscal year for which the determination is made or $50,000, whichever is greater.~~

~~"(D) ALLOTMENT PERCENTAGE.—For purposes of subparagraph (C)(i)—~~

~~"(i) except as provided in clauses (ii) through (iv), the allotment percentage of each State shall be 100 percent less the percentage that bears the same ratio to 50 percent as the per capita income of the State bears to the per capita income of all the States;~~

~~"(ii) the allotment percentage for each State shall be not more than 75 percent and not less than 33⅓ percent;~~

~~"(iii) the allotment percentage for Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands shall be 75 percent; and~~

"(iv) subject to clause (ii), the allotment percentage for a State whose allotment percentage is not adjusted under clause (ii) or (iii) shall be adjusted proportionately to the extent necessary to achieve the percentages required under such clauses.

"(E) LIMITATION.—For purposes of subparagraphs (C)(ii)(I) and (D)(i), the term 'State' does not include Guam, American Samoa, the Virgin Islands of the United States, or the Commonwealth of the Northern Mariana Islands.

"(F) POPULATION AND PER CAPITA INCOME DETERMINATIONS.—For purposes of this paragraph, the number of individuals 55 years of age or older in each State, and the per capita income of each State, 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.

"(b) REALLOTMENT.—If any part of the amount allotted under this section to a State for a fiscal year is not distributed to the State for such fiscal year, such part

~~shall be reallotted under this section for such fiscal year to the remaining eligible States.~~

~~"SEC. 503. SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM.~~

~~"(a) AUTHORITY FOR PROGRAM.—~~

~~"(1) GRANTS.—With funds allotted under section 502(a), the Assistant Secretary shall make grants to eligible States and tribal organizations for the purpose of providing, to unemployed low-income older individuals who have poor employment prospects (as determined in accordance with standards issued by the States and organizations), part-time employment opportunities providing community services.~~

~~"(2) USE OF FUNDS.—~~

~~"(A) WAGES AND BENEFITS.—~~

~~"(i) IN GENERAL.—Except as provided in clause (ii) or subparagraph (C) or (D), not less than 90 percent of the funds made available through a grant made under paragraph (1) shall be used to pay wages and benefits for older individuals who are employed under projects carried out under this title.~~

~~"(ii) SMALL STATES.—Except as provided in subparagraph (C) or (D), not less than 85 percent of the funds made available through a grant made under paragraph (1) to a small State shall be used to pay wages and benefits for older individuals who are employed under projects carried out under this title.~~

~~"(B) ADMINISTRATIVE COSTS.—~~

~~"(i) IN GENERAL.—Except as provided in clause (ii), not more than 10 percent of the funds made available through a grant made under paragraph (1) may be used to pay for administrative costs.~~

~~"(ii) SMALL STATES.—Not more than 15 percent of the funds made available through a grant made under paragraph (1) to a small State may be used to pay for administrative costs.~~

~~"(C) OTHER PARTICIPANT COSTS; PROJECTS CARRIED OUT DIRECTLY.—~~

~~"(i) IN GENERAL.—A State or tribal organization that receives a grant under paragraph (1) for a project and that elects to carry out the project directly, or~~

through an agreement under subsection (b) with a political subdivision, may request that the Assistant Secretary provide for a fiscal year—

"(I) a general waiver of subparagraph (A); and

"(II) an additional waiver of subparagraph (A).xxx

"(ii) REQUEST.—

"(I) IN GENERAL.—The State or tribal organization shall submit such a request at such time, in such form, and containing such information as the Assistant Secretary may require by rule.

"(II) INFORMATION FOR ADDITIONAL WAIVER.—A State or tribal organization that requests such an additional waiver for a fiscal year shall submit with the request information demonstrating that at least 30 percent of the participants in the projects carried out through a grant made under paragraph (1) for the previous

~~year to the State or organization were placed in unsubsidized employment.~~

~~"(iii) APPROVAL.—If the Assistant Secretary determines that the State or tribal organization has submitted a request that meets the requirements of clause (ii), the Assistant Secretary shall approve the request.~~

~~"(iv) GENERAL WAIVER.—A general waiver referred to in this subparagraph shall permit the State or tribal organization to use a portion, but not more than 20 percent, of the funds made available through the grant for the fiscal year for which the waiver is requested for administrative costs or other participant costs, subject to clause (i) or (ii), as appropriate, of subparagraph (B).~~

~~"(v) ADDITIONAL WAIVER.—~~

~~"(I) IN GENERAL.—An additional waiver referred to in this subparagraph shall permit the State or tribal organization to use a portion, but not more than 5 percent, of the funds made available through the grant for~~

~~the fiscal year for which the waiver is requested for other participant costs.~~

~~"(II) CALCULATION.—If a State or tribal organization receives a general waiver described in clause (iv) and an additional waiver described in this clause, the State or organization may use the portion described in clause (iv) and the portion described in this clause for the fiscal year for which the waivers are requested for administrative costs or other participant costs, subject to clause (i) or (ii), as appropriate, of subparagraph (B).~~

~~"(D) OTHER PARTICIPANT COSTS; PROJECTS CARRIED OUT UNDER AGREEMENTS.—~~

~~"(i) IN GENERAL.—An entity, other than a State, tribal organization, or political subdivision, that carries out a project under a grant made under paragraph (1) may request that the State or tribal organization that received the grant provide for a fiscal year—~~

~~"(I) a general waiver of subparagraph (A); and~~

~~"(II) an additional waiver of subparagraph (A).~~

~~"(ii) APPLICATION OF PROVISIONS.—The provisions of clauses (ii) through (v) of subparagraph (C) shall apply to such requests and such general and additional waivers, as appropriate, except that references in such provisions—~~

~~"(I) to a State or tribal organization shall be deemed to be references to the entity referred to in clause (i); and~~

~~"(II) to the Assistant Secretary shall be deemed to be references to the State or tribal organization that received the grant referred to in clause (i).~~

~~"(E) NON-FEDERAL SOURCES.—To the maximum extent practicable, an entity that carries out a project under this title shall provide for the payment of the costs described in subparagraph (B), (C), or (D) from non-Federal sources.~~

~~"(b) ELIGIBILITY FOR GRANTS.—~~

~~"(1) APPLICATION AND AGREEMENTS.—To be eligible to receive a grant under subsection (a), a State or tribal organization shall submit to the Assistant Secretary an application at such time, in such form, and containing such information as the Assistant Secretary may require by rule, including an assurance that funds made available through such grant—~~

~~"(A) will be used by the State or tribal organization to carry out projects for the purpose specified in subsection (a)(1)—~~

~~"(i) directly (in accordance with the requirements of subsection (d)); or~~

~~"(ii) through agreements that satisfy the requirements of this subsection and subsection (d); and~~

~~"(B) will not be used to carry out a project involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship.~~

~~"(2) PARTICIPANTS IN AGREEMENT.—Such agreements shall be entered into by the State or tribal organization with—~~

~~"(A) public or nonprofit private agencies or organizations;~~

~~"(B) political subdivisions of States having elected or duly appointed governing officials (or combinations of such political subdivisions);~~

~~"(C) tribal organizations; and~~

~~"(D) area agencies on aging.~~

~~"(3) AGREEMENT WITH BUSINESSES.—At the election of a State or tribal organization that receives a grant made under subsection (a), not more than 5 percent of the funds made available through the grant may be used to enter into agreements with businesses (giving special consideration to businesses in growth industries) to pay for not more than 50 percent of the cost of providing employment (including arranging for the provision of employment) to older individuals described in subsection (a).~~

~~"(c) COMPETITIVE BASIS.—In selecting an entity with whom a State or tribal organization will enter into an agreement under subsection (b), the State or organization—~~

~~"(1) shall make the selection on a competitive basis; and~~

~~"(2) shall take into consideration, where appropriate, the demonstrated ability of the entity to pro-~~

~~vide employment (including arranging for the provision of employment) to older individuals described in subsection (a).~~

~~"(d) REQUIREMENTS.—~~

~~"(1) IN GENERAL.—Each agreement entered into under subsection (b) for a project shall provide that no payment shall be made by the State or tribal organization toward the cost of such project unless the State or tribal organization determines that such project, or the entity that carries out such project, as appropriate, will satisfy each of the conditions described in paragraphs (2) through (13). Each State or tribal organization that carries out a project directly under subsection (b) shall ensure that such project or the State or organization, as appropriate, will satisfy each of the conditions described in paragraphs (2) through (13).~~

~~"(2) FEDERAL SHARE REQUIREMENT.—~~

~~"(A) IN GENERAL.—The entity that carries out the project shall use funds received for such project that are made available through a grant made under subsection (a) to pay for the Federal share of the cost of the project.~~

~~"(B) FEDERAL SHARE.—The Federal share of the cost of the project shall be not more than 85 percent.~~

~~"(C) NON-FEDERAL SHARE.—The non-Federal share of such cost shall be contributed 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.~~

~~"(3) PERSONNEL.—The project shall provide employment only for older individuals described in subsection (a), except for necessary technical, administrative, and supervisory personnel. Such personnel shall, to the fullest extent possible, be recruited from among older individuals described in subsection (a).~~

~~"(4) COMMUNITIES.—~~

~~"(A) IN GENERAL.—If such project is carried out by or under an agreement with a State, the project shall provide employment for such individuals in the community in which such individuals reside, or in nearby communities.~~

~~"(B) RESERVATIONS.—If such project is carried out by or under an agreement with a~~

~~tribal organization, the project shall provide employment for such individuals who are Indians residing on an Indian reservation.~~

~~"(5) SERVICES.—The project (except a project carried out under an agreement described in subsection (b)(3)) shall employ older individuals described in subsection (a) in positions in which the individuals provide services—~~

~~"(A) related to publicly owned and operated facilities or public projects; or~~

~~"(B) related to projects sponsored by organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 that are exempt from taxation under section 501(a) of such Code.~~

~~"(6) GENERAL WELFARE.—The project shall contribute to the general welfare of the community in which the project is carried out.~~

~~"(7) EMPLOYMENT IMPACTS.—The project shall—~~

~~"(A) result in an increase in employment opportunities over the opportunities that would otherwise be available;~~

~~"(B) not result in the displacement (including partial displacement, such as a reduc-~~

~~tion in the hours of nonovertime work or wages or employment benefits) of currently employed workers (as of the date of the beginning of the project); and~~

~~"(C) not impair existing contracts (as of the date of the beginning of the project) or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed.~~

~~"(8) RECRUITMENT AND SELECTION.—In carrying out the project, the entity shall utilize methods of recruitment and selection (including listing job vacancies with an employment agency operated by any State or political subdivision of a State) that will ensure that the maximum number of older individuals described in subsection (a) will have an opportunity to participate in the project.~~

~~"(9) TRAINING.—The project shall include such training as may be necessary to make the most effective use of the skills and talents of such individuals who are participating in the project and assist in their transition into employment for which no financial assistance is provided under this title.~~

~~"(10) ADVICE.—The entity shall establish or administer the project after receiving the advice of—~~

~~"(A) individuals competent in the field of service in which the project will provide employment; and~~

~~"(B) individuals who are knowledgeable with regard to the needs of older individuals.~~

~~"(11) ASSESSMENT.—The entity shall prepare an assessment of—~~

~~"(A) the skills and talents of each participating older individual;~~

~~"(B) the need of the older individual for supportive services; and~~

~~"(C) the ability of the older individual to perform community service employment;~~

~~except to the extent that the project has an assessment of such skills and talents, such need, or such ability, of the individual that was prepared recently pursuant to another Federal or State employment or job training program.~~

~~"(12) NOTICE AND EXPLANATION.—The entity that carries out such project shall post in the project workplace a notice, and shall make available to each individual 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.~~

~~"(13) PRIORITY IN EMPLOYMENT OPPORTUNITIES.—In providing employment opportunities (including arranging for the provision of employment opportunities) under the project, such entity shall give priority to low-income older individuals described in subsection (a) who are 60 years of age or older.~~

~~"(e) PREREQUISITE DETERMINATIONS AND COORDINATION.—~~

~~"(1) DETERMINATIONS.—To effectively carry out subsection (b), a State or tribal organization that receives a grant under subsection (a) for a fiscal year shall, after consultation with the appropriate area agencies on aging and with other organizations that received funds under this title in the preceding fiscal year—~~

~~"(A) make a determination identifying the localities in the State, or on an Indian reservation in the case of a tribal organization, in which projects described in subsection (b) are most needed;~~

~~"(B) in making such determination, consider the local employment situations and the~~

~~types of skills possessed by available local older individuals described in subsection (a); and~~

~~"(C) make a determination identifying potential projects for, and the number and percentage of such individuals in the local population of, each such locality.~~

~~"(2) COORDINATION.—To increase job opportunities available to older individuals, the State or tribal organization shall coordinate the projects assisted under this title with—~~

~~"(A) other programs, projects, and activities carried out under this Act; and~~

~~"(B) other Federal or State employment or job training programs.~~

~~"(3) PARTICIPANTS.—To the maximum extent practicable, the State or tribal organization shall ensure that entities that carry out projects under this title provide employment (including arranging for the provision of employment) under this title to older individuals who on the day before the effective date of section 3 of the Older Americans Amendments of 1995 were participants under an agreement entered into under section 502(b) (as in effect on the day before such date).~~

~~"(f) EQUITABLE USE OF FUNDS.—To the maximum extent practicable, the State or tribal organization shall use funds available for this title to enter into agreements under subsection (b) or carry out this title in an equitable manner, taking into consideration the number of eligible older individuals in the various geographical areas served under the agreements or by the State or organization and the relative distribution of such individuals among urban and rural areas.~~

~~"(g) PRIOR SUBMISSION OF PROJECT DESCRIPTION.—If an entity carries out a project under this title in a planning and service area, and the entity is not the area agency on aging for the planning and service area, the entity shall carry out the project in consultation with the area agency on aging and shall submit to the area agency on aging, not less than 30 days before undertaking the project, a description (including the location) of such project.~~

~~"(h) ALTERNATIVE WORK MODES; TECHNICAL ASSISTANCE.—To assist entities carrying out, and participants in, projects assisted under this title, the State or tribal organization may develop alternatives for innovative work modes and provide technical assistance in creating job opportunities through work sharing and other experimental methods to groups representing business and in-~~

~~dustry and workers, as well as to individual employers, where appropriate.~~

~~"(i) REPORT.—If a State or tribal organization elects under subsection (b) to enter into agreements described in paragraph (3) of such subsection for a fiscal year, the State or tribal organization shall submit to the Assistant Secretary a report describing the projects carried out under such agreements.~~

~~"(j) DATA COLLECTION AND ANALYSIS.—A State or tribal organization that receives a grant under subsection (a) shall use a portion of the remaining funds described in subsection (a)(2)(B) to collect data and carry out analyses related to the need for community service employment within the population served under the grant and disseminate information obtained through the data collection and analyses.~~

~~"(k) RULES.—The Secretary shall issue, and amend from time to time, rules that require States and tribal organizations that receive grants under subsection (a) to establish, to the maximum extent practicable, for projects carried out under this title the goal of annually placing not less than 20 percent of project participants in employment for which no financial assistance is provided under this title.~~

~~"SEC. 504. PARTICIPANTS NOT FEDERAL EMPLOYEES.~~

~~"(a) PROJECT PARTICIPANTS.—Older individuals described in section 503(a) who participate in a project assisted under this title shall not be considered to be Federal employees as a result of such participation and shall not be subject to the provisions of part III of title 5, United States Code.~~

~~"(b) WORKMEN'S COMPENSATION.—No State or tribal organization shall enter into an agreement under section 503(b) with, or carry out such a project through, an entity 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 entity shall undertake to provide either through insurance by a recognized carrier, or by self-insurance, as authorized by State law, that the individuals employed under the contract shall enjoy workmen's compensation coverage equal to such coverage provided by law for covered employment.~~

~~"SEC. 505. EMPLOYMENT ASSISTANCE AND FEDERAL HOUSING AND FOOD STAMP PROGRAMS.~~

~~"Funds received by eligible individuals from projects carried out under 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 (7 U.S.C. 2011 et seq.).~~

~~"SEC. 506. DEFINITIONS.~~

~~"As used in this title:~~

~~"(1) ADMINISTRATIVE COSTS.—The term 'administrative costs', used with respect to a project, means—~~

~~"(A) the costs of—~~

~~"(i) salaries, wages, and fringe benefits for project administrators;~~

~~"(ii) consumable office supplies used by project staff;~~

~~"(iii) development, preparation, presentation, management, and evaluation of the project;~~

~~"(iv) establishment and maintenance of accounting and management information systems;~~

~~"(v) establishment and maintenance of advisory councils;~~

~~"(vi) travel of the project administrators;~~

~~"(vii) rent, utilities, custodial services, and indirect costs attributable to the project;~~

~~"(viii) training of staff and technical assistance to subproject sponsor staff;~~

~~"(ix) equipment and material for use by project staff; or~~

~~"(x) audit services; and~~

~~"(B) the costs and expenses described in paragraph (5)(B).~~

~~"(2) COMMUNITY SERVICES.—The term 'community services' means—~~

~~"(A) social, health, welfare, and educational services (particularly literacy tutoring);~~

~~"(B) legal and other counseling services and assistance, including tax counseling and assistance and financial counseling;~~

~~"(C) library, recreational, and other similar services;~~

~~"(D) conservation, maintenance, or restoration of natural resources;~~

~~"(E) community betterment or beautification;~~

~~"(F) antipollution and environmental quality efforts;~~

~~"(G) weatherization activities;~~

~~"(H) economic development; and~~

~~"(I) such other services essential and necessary to the community involved as the Secretary, by regulation, may require.~~

~~"(3) LOW-INCOME.—The term 'low-income', used with respect to an individual, means an individual who is a member of a family that has an income that is not more than 125 percent of the poverty line.~~

~~"(4) OLDER INDIVIDUAL.—The term 'older individual' means an individual who is 55 years of age or older.~~

~~"(5) OTHER PARTICIPANT COSTS.—~~

~~"(A) IN GENERAL.—The term 'other participant costs' includes—~~

~~"(i) the costs for participants of—~~

~~"(I) transportation;~~

~~"(II) training, including training described in section 503(d)(9); and~~

~~"(III) special job or personal counseling; and~~

~~"(ii) incidental expenses necessary for the participation of the participants, such~~

~~as workshoes, safety eyeglasses, uniforms, tools, and similar items.~~

~~"(B) EXCLUSION.—The term shall not include—~~

~~"(i) the costs of performing assessments, including the assessment described in section 503(d)(11);~~

~~"(ii) administrative expenses relating to the training of participants;~~

~~"(iii) the costs of providing counseling to participants;~~

~~"(iv) the costs of providing supportive services to participants;~~

~~"(v) transportation costs incurred in training;~~

~~"(vi) the costs of evaluating participants for continued participation in employment in a project described in this title; or~~

~~"(vii) the costs of developing host agency assignments and unsubsidized employment for participants.~~

~~"(6) PLACED IN UNSUBSIDIZED EMPLOYMENT.—~~

~~"(A) IN GENERAL.—The term 'placed in unsubsidized employment' means, with respect to an individual who was a participant in a project described in this title, that—~~

~~"(i)(I) the individual was placed in a position with an employer not later than 90 days after the individual terminated participation in the project, and the position was not subsidized with Federal funds; and~~

~~"(II) the placement was attibutable to participation in the project;~~

~~"(ii) the employer intended, on the date of the placement, to employ the individual in the position for not less than 90 days;~~

~~"(iii) the individual was still employed in the position 30 days after the placement; and~~

~~"(iv) the individual was better off economically when employed in the position than the individual was when participating in the project.~~

~~"(B) BETTER OFF ECONOMICALLY.—As used in this paragraph, the term 'better off eco-~~

~~nomically', used with respect to an individual, means an individual who was a participant in a project described in this title and was placed in a position of employment if—~~

~~"(i) the individual received greater income for employment in the position than for participation in the project;~~

~~"(ii) the individual received greater benefits (as defined by the State in which the project is located) for employment in the position than for participation in the project; or~~

~~"(iii) the position met 2 or more of the following criteria:~~

~~"(I) The position provided to the individual 20 or more hours of employment per week and a wage that is not less than the minimum wage determined in accordance with section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).~~

~~"(II) The position was consistent with the individual development plan for the individual.~~

~~"(III) The position provided free housing to the individual.~~

~~"(IV) The position provided free food or meals to the individual.~~

~~"(V) The position provided health benefits to the individual.~~

~~"(VI) The position provided free transportation, or transportation at a reduced cost, to the individual.~~

~~"(VII) The position provided to the individual such economic benefits, other than the benefits described in subclauses (I) through (VI), as the State in which the project is located may determine to be appropriate.~~

~~"(7) SMALL STATE.—The term 'small State' means—~~

~~"(A) a State whose allotment under section 502 is increased as a result of the condition specified in section 502(a)(2)(C)(ii)(I); and~~

~~"(B) a State referred to in section 502(a)(2)(C)(ii)(II).~~

~~"(8) STATE.—The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American~~

~~Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.~~

~~"(9) TRIBAL ORGANIZATION.—Notwithstanding section 102, the term 'tribal organization' means—~~

~~"(A) the recognized governing body of an Indian tribe;~~

~~"(B) the legally established organization of Indians that is controlled, sanctioned, or chartered by the recognized governing body of an Indian tribe;~~

~~"(C) a legally established organization of Indians that is democratically elected by the adult members of the Indian community to be served by such organization and that includes the maximum participation of Indians in all phases of the activities of the organization; and~~

~~"(D) a public or nonprofit private organization that is primarily controlled by and comprised of Indians or Indian tribes.~~

~~"SEC. 507. AUTHORIZATION OF APPROPRIATIONS.~~

~~"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal year 1996.~~

~~"(b) PROGRAM YEAR AND EXTENSIONS.—~~

~~"(1) PROGRAM YEAR.—Amounts appropriated under subsection (a) for a fiscal year shall be used during the annual period that—~~

~~"(A) begins on July 1 of the calendar year immediately following the beginning of such fiscal year; and~~

~~"(B) ends on June 30 of the following calendar year.~~

~~"(2) EXTENSIONS.—The Secretary may extend the period during which such amounts may be obligated or expended in the case of a particular organization or agency receiving funds under this title if the Secretary determines that such extension is necessary to ensure the effective use of such funds by such organization or agency. Any such extension shall be for a period of not more than 60 days after the end of such annual period.".~~

~~(b) TECHNICAL AND CONFORMING AMENDMENTS.—~~

~~(1) Section 102(1) (42 U.S.C. 3002(1)) is amended by striking all that follows "Services" and inserting a period.~~

~~(2) The second sentence of section 201(a) (42 U.S.C. 3011(a)) is amended by striking "Except for title V, the" and inserting "The".~~

~~(3) Section 203(a)(3)(A) (42 U.S.C. 3013(a)(3)(A)) is amended by inserting ''(as in effect on the day before the date of enactment of the Older Americans Amendments of 1995)'' after ''507''.~~

~~SEC. 4. AMENDMENT TO THE OLDER AMERICANS ACT OF 1965.~~

~~The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended to read as follows:~~

~~''SECTION 1. SHORT TITLE.~~

~~''This Act may be cited as the 'Older Americans Act of 1965'.~~

~~''SEC. 2. TABLE OF CONTENTS.~~

~~''The table of contents for this Act is as follows:~~

~~''Sec. 1. Short title.~~
~~''Sec. 2. Table of contents.~~

~~''TITLE I—GENERAL PROVISIONS~~

~~''Subtitle A—Core Objectives and Definitions~~

~~''Sec. 101. Core objectives.~~
~~''Sec. 102. Definitions.~~

~~''Subtitle B—Administration~~

~~''Sec. 111. Establishment of Administration on Aging.~~
~~''Sec. 112. Functions of the Assistant Secretary.~~
~~''Sec. 113. Reports.~~
~~''Sec. 114. Reduction of paperwork.~~
~~''Sec. 115. Surplus property eligibility.~~
~~''Sec. 116. Treatment of costs.~~
~~''Sec. 117. Disaster relief.~~
~~''Sec. 118. Authorization of appropriations.~~

~~''Subtitle C—Funding~~

~~''Sec. 121. Allotments; Federal share.~~
~~''Sec. 122. Authorization of appropriations.~~
~~''Sec. 123. Additional funds available for nutrition services.~~

~~"TITLE II—STATE PROGRAMS ON AGING~~

~~"Subtitle A—General Provisions~~

~~"Sec. 201. Eligibility of States.~~
~~"Sec. 202. State plans.~~
~~"Sec. 203. Planning, coordination, evaluation, and administration of State plans.~~
~~"Sec. 204. Payments.~~

~~"Subtitle B—State Long-Term Care Ombudsman Program~~

~~"Sec. 211. Establishment.~~
~~"Sec. 212. Requirements for State long-term care ombudsman program.~~

~~"Subtitle C—Senior Community Service Employment Program~~

~~"Sec. 221. Short title.~~
~~"Sec. 222. Definitions.~~
~~"Sec. 223. Senior community service employment program.~~
~~"Sec. 224. Participants not Federal employees.~~
~~"Sec. 225. Employment assistance and Federal housing and food stamp programs.~~

~~"Subtitle D—Disease Prevention and Health Promotion~~

~~"Sec. 231. Establishment of grant program.~~
~~"Sec. 232. Distribution to area agencies on aging.~~

~~"TITLE III—LOCAL PROGRAMS ON AGING~~

~~"Subtitle A—General Provisions~~

~~"Sec. 301. Eligibility of local organizations.~~
~~"Sec. 302. Area plans.~~

~~"Subtitle B—Supportive Services and Senior Centers~~

~~"Sec. 311. Program authorized.~~

~~"Subtitle C—Nutrition Services~~

~~"Sec. 321. Program authorized.~~
~~"Sec. 322. Additional requirements.~~

~~"TITLE IV—NATIVE AMERICAN PROGRAMS ON AGING~~

~~"Sec. 401. Grants for services to Native Americans.~~
~~"Sec. 402. Applications for grants.~~
~~"Sec. 403. Distribution of funds among eligible organizations.~~
~~"Sec. 404. Surplus educational facilities.~~
~~"Sec. 405. Administration.~~
~~"Sec. 406. Payments.~~
~~"Sec. 407. Authorization of appropriations.~~

~~"TITLE I—GENERAL PROVISIONS~~

~~"Subtitle A—Core Objectives and Definitions~~

~~"SEC. 101. CORE OBJECTIVES.~~

~~"It is the purpose of this Act to fulfill the responsibility of the United States to assist older individuals to remain living independently and with dignity for as long as possible in their communities, and to encourage and assist State agencies, area agencies on aging, and Indian tribes in concentrating resources and collaborating with the private sector in order to—~~

~~"(1) develop greater capacity, and foster the development and implementation of comprehensive and coordinated systems to serve older individuals, by entering into cooperative arrangements in each State for the planning and provision of supportive services (including services to support multipurpose senior centers), nutrition services, and employment and volunteer services; and~~

~~"(2) achieve core objectives consisting of—~~

~~"(A) securing and maintaining maximum independence and dignity in a home environment for older individuals capable of self-care with appropriate supportive services and nutrition services;~~

~~"(B) removing individual and social barriers to personal independence for older individuals;~~

~~"(C) promoting a continuum of care for vulnerable older individuals;~~

~~"(D) fostering ways for older individuals to receive managed in-home and community-based long-term care services;~~

~~"(E) ensuring that older individuals will be protected against abuse, neglect, and exploitation; and~~

~~"(F) promoting employment opportunities and community services for older individuals.~~

~~"SEC. 102. DEFINITIONS.~~

~~"As used in this Act:~~

~~"(1) ABUSE.—The term 'abuse' means (except when the term is used as part of the term 'drug and alcohol abuse') 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 nec-~~

~~essary to avoid physical harm, mental anguish, or mental illness.~~

~~"(2) ADMINISTRATION.—The term 'Administration' means the Administration on Aging.~~

~~"(3) ADULT CHILD WITH A DISABILITY; ADULT CHILDREN WITH DISABILITIES.—~~

~~"(A) ADULT CHILD WITH A DISABILITY.—The term 'adult child with a disability' means a child who—~~

~~"(i) is 18 years of age or older;~~

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

~~"(iii) has a disability.~~

~~"(B) ADULT CHILDREN WITH DISABILITIES.—The term 'adult children with disabilities' means more than 1 adult child with a disability.~~

~~"(4) ALASKA NATIVE.—The term 'Alaska Native' means an individual who is a member of an Alaska Native organization.~~

~~"(5) ALASKA NATIVE ORGANIZATION.—The term 'Alaska Native organization' means a Native village, regional corporation, or village corporation, as defined in or established pursuant to the Alaska~~

~~Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Alaska Natives because of their status as Alaska Natives.~~

~~"(6) AREA AGENCY ON AGING.—The term 'area agency on aging' means an area agency on aging designated under section 201(a)(2)(A), a State agency performing the functions of an area agency on aging as the result of a designation of the entire State as a single planning and service area, or a State agency that is administering a program under section 302(c)(3) (for purposes of provisions relating to such program).~~

~~"(7) ASSISTANT SECRETARY.—The term 'Assistant Secretary' means the Assistant Secretary for Aging.~~

~~"(8) ASSISTIVE TECHNOLOGY.—The term 'assistive technology' means technology, an engineering methodology, or a scientific principle, appropriate to meet the needs of, and address the barriers confronted by, older individuals with functional limitations.~~

~~"(9) BOARD AND CARE FACILITY.—The term 'board and care facility' means an institution regu-~~

~~lated by a State pursuant to section 1616(e) of the Social Security Act (42 U.S.C. 1382c(e)).~~

~~"(10) CAREGIVER.—The term 'caregiver' means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law.~~

~~"(11) CARETAKER.—The term 'caretaker' means a family member or other individual who provides (on behalf of such individual or of a public or nonprofit private agency, organization, or institution) uncompensated care to an older individual who needs supportive services.~~

~~"(12) CASE MANAGEMENT SERVICE.—The term 'case management service'—~~

~~"(A) means assessment, development, and implementation, carried out in cooperation with an older individual (or the caregiver or caretaker of the individual, where appropriate), of a care plan—~~

~~"(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, environmental, economic, 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, including assistive technology, to meet the needs of the older individual, including coordination of the resources and services—~~

~~"(I) with the services identified in 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, including assistive technology, are being provided;~~

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

~~"(I) the older individual; or~~

~~"(II) if appropriate, a caregiver or caretaker 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.~~

~~"(13) CHILD.—The term 'child' means (except when the term appears as part of the term 'adult child with a disability') an individual who is less than 18 years of age.~~

~~"(14) COMMUNITY SERVICES.—The term 'community services' means—~~

~~"(A) social, health, welfare, and educational services (particularly literacy tutoring);~~

~~"(B) legal and other counseling services and assistance, including tax counseling and assistance and financial counseling;~~

~~"(C) library, recreational, and other similar services;~~

~~"(D) conservation, maintenance, or restoration of natural resources;~~

~~"(E) community betterment or beautification;~~

~~"(F) antipollution and environmental quality efforts;~~

~~"(G) weatherization activities;~~

~~"(H) economic development; and~~

~~"(I) such other services essential and necessary to the community as the Secretary, by regulation, may require.~~

~~"(15) COMPREHENSIVE AND COORDINATED SYSTEM.—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 non-~~

~~profit private agency, organization, or institution;~~

~~"(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.~~

~~"(16) DISABILITY.—The term 'disability' means (except when the term is used as part of the term 'severe disability', 'developmental disabilities', 'physical and mental disabilities', or 'physical disabilities') a condition attributable to a 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 major life activities:~~

~~"(A) Self-care.~~

~~"(B) Use of receptive and expressive language.~~

~~"(C) Learning.~~

~~"(D) Achievement of mobility.~~

~~"(E) Self-direction.~~

~~"(F) Independent living.~~

~~"(G) Achievement of economic self-sufficiency.~~

~~"(H) Cognitive functioning.~~

~~"(I) Emotional adjustment.~~

~~"(17) ELDER ABUSE, NEGLECT, AND EXPLOITATION.—The term 'older abuse, neglect, and exploitation' means abuse, neglect, and exploitation, of an older individual.~~

~~"(18) EXPLOITATION.—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.~~

~~"(19) FOCAL POINT.—The term 'focal point' means an entity that maximizes the collocation and coordination of services for older individuals.~~

~~"(20) FRAIL.—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 2 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 3 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.~~

~~"(21) GREATEST ECONOMIC NEED.—The term 'greatest economic need' means the need resulting from an income level at or below the poverty line.~~

~~"(22) GREATEST SOCIAL NEED.—The term 'greatest social need' means the need caused by non-economic factors that 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.~~

~~"(23) IN-HOME SERVICES.—The term 'in-home services' includes—~~

~~"(A) homemaker 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 programs carried out under other Acts, except that not more than $150 per client may be expended under this Act for such modification;~~

~~"(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 202; and~~

~~"(ii) by the area agency on aging in the area plan submitted in accordance with section 302.~~

~~"(24) INDIAN.—The term 'Indian' means—~~

~~"(A) except as used in title IV, an individual who is a member of an Indian tribe; and~~

~~"(B) as used in title IV, an individual who is a member of an Indian tribe, as defined in paragraph (25)(B).~~

~~"(25) INDIAN TRIBE.—The term 'Indian tribe' means—~~

~~"(A) except as used in title IV, any tribe, band, nation, or other organized group or community that is—~~

~~"(i) recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or~~

~~"(ii) located on, or in proximity to, a Federal reservation or rancheria; and~~

~~"(B) as used in title IV, any tribe, band, nation, or other organized group or community that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.~~

~~"(26) INFORMATION AND ASSISTANCE SERVICE.—The term 'information and assistance service' means a service for older individuals that—~~

~~"(A) provides the individuals with current information (as of the date the information is~~

~~provided) 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) educates the individuals about insurance benefits and public benefits (including various health care benefit options available to qualified medicare beneficiaries, as defined in section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)), within an area, such as fee-for-service options, health maintenance organization and other managed care options, and benefits through medicare supplemental policies);~~

~~"(E) 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~~

~~"(F) serves an entire community of older individuals, particularly—~~

~~"(i) older individuals with greatest social need; and~~

~~"(ii) older individuals with greatest economic need.~~

~~"(27) INSURANCE BENEFIT.—The term 'insurance benefit' means a benefit under—~~

~~"(A) the medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);~~

~~"(B) the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);~~

~~"(C) a public or private insurance program;~~

~~"(D) a medicare supplemental policy; or~~

~~"(E) a pension plan.~~

~~"(28) LEGAL ASSISTANCE.—The term 'legal assistance'—~~

~~"(A) means legal advice and representation provided by an attorney to an older individual 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 su-~~

~~pervision of an attorney to such an older individual; and~~

~~"(ii) counseling or representation by a nonlawyer where permitted by law to such an older individual.~~

~~"(29) LONG-TERM CARE FACILITY.—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) as used in section 212, a board and care facility; and~~

~~"(D) any other adult care home similar to a facility or institution described in subparagraph (A), (B), or (C).~~

~~"(30) LOW-INCOME.—The term 'low-income', used with respect to an individual, means an individual who is a member of a family that has income that is not more than 150 percent of the poverty line.~~

~~"(31) MEDICARE SUPPLEMENTAL POLICY.—The term 'medicare supplemental policy' has the~~

~~meaning given the term in section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1)).~~

~~"(32) MULTIPURPOSE SENIOR CENTER.—The term 'multipurpose senior center' means a community facility for the organization and provision of a broad spectrum of services, which may include the provision of health (including mental health), social, nutritional, and educational services and the provision of facilities for recreational activities, for older individuals.~~

~~"(33) NATIVE AMERICAN.—The term 'Native American' means—~~

~~"(A) an Indian;~~

~~"(B) an Alaska Native; or~~

~~"(C) a Native Hawaiian.~~

~~"(34) NATIVE HAWAIIAN.—The term 'Native Hawaiian' means any individual any of whose ancestors were natives of the area that consists of the Hawaiian Islands prior to 1778.~~

~~"(35) NEGLECT.—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.~~

~~"(36) NONPROFIT.—The term 'nonprofit', used with respect to any agency, institution, or organization, means an agency, institution, or organization that is, or is owned and operated by, 1 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.~~

~~"(37) NUTRITION SERVICES.—The term 'nutrition services' means the services authorized to be provided through a project carried out under subtitle C of title III (including similar services provided under title IV).~~

~~"(38) OLDER INDIVIDUAL.—The term 'older individual' means—~~

~~"(A) except as used in subtitle C of title II, an individual who is 60 years of age or older; and~~

~~"(B) as used in subtitle C of title II, an individual who is 55 years of age or older.~~

~~"(39) PENSION PLAN.—The term 'pension plan' means an employee pension benefit plan, as defined in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)).~~

~~"(40) PHYSICAL HARM.—The term 'physical harm' means bodily injury, bodily impairment, or disease.~~

~~"(41) PLANNING AND SERVICE AREA.—The term 'planning and service area' means an area designated by a State agency under section 201(a)(1)(E), including a single planning and service area described in section 301(a)(1)(E).~~

~~"(42) POVERTY LINE.—The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget, and revised annually by the Secretary in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.~~

~~"(43) PUBLIC BENEFIT.—The term 'public benefit' means a benefit under—~~

~~"(A) the Federal Old-Age, Survivors, and Disability Insurance Benefits programs under title II of the Social Security Act (42 U.S.C. 401 et seq.);~~

~~"(B) the medicare program established under title XVIII of the Social Security Act, including benefits as a qualified medicare beneficiary, as defined in section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p));~~

~~"(C) the medicaid program established under title XIX of the Social Security Act;~~

~~"(D) the program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);~~

~~"(E) the program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.);~~

~~"(F) the supplemental security income program established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.); or~~

~~"(G) a program determined to be appropriate by the Assistant Secretary.~~

~~"(44) REPRESENTATIVE PAYEE.—The term 'representative payee' means a person who is appointed by a governmental entity to receive, on behalf of an older individual who is unable to manage funds by reason of a physical or mental incapacity, any funds owed to such individual by such entity.~~

~~"(45) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.~~

~~"(46) SEVERE DISABILITY.—The term 'severe disability' means a severe, chronic disability attributable to a 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 (I) of paragraph (16).~~

~~"(47) STATE.—The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.~~

~~"(48) STATE AGENCY.—The term 'State agency' means the agency designated under section 201(a)(1).~~

~~"(49) SUPPORTIVE SERVICE.—The term 'supportive service' means a service described in section 311.~~

~~"(50) TRIBAL ORGANIZATION.—~~

~~"(A) IN GENERAL.—Except as used in title IV, the term 'tribal organization' means—~~

~~"(i) the recognized governing body of an Indian tribe;~~

~~"(ii) the legally established organization of Indians that is controlled, sanc-~~

~~tioned, or chartered by the recognized governing body of an Indian tribe;~~

~~"(iii) a legally established organization of Indians that is democratically elected by the adult members of the Indian community to be served by such organization and that includes the maximum participation of Indians in all phases of the activities of the organization; and~~

~~"(iv) a public or nonprofit private organization that is primarily controlled by and comprised of Indians or Indian tribes.~~

~~"(B) TITLE IV.—~~

~~"(i) DEFINITION.—As used in title IV, the term 'tribal organization' means—~~

~~"(I) the recognized governing body of an Indian tribe;~~

~~"(II) the legally established organization of Indians that is controlled, sanctioned, or chartered by the recognized governing body of an Indian tribe; and~~

~~"(III) a legally established organization of Indians that is democratically elected by the adult members of~~

the Indian community to be served by such organization and that includes the maximum participation of Indians in all phases of the activities of the organization.

"(ii) CLARIFICATION.—As used in this subparagraph, the terms 'Indian' and 'Indian tribe' have the meanings given the terms in paragraphs (24)(B) and (25)(B), respectively.

"(51) UNIT OF GENERAL PURPOSE LOCAL GOVERNMENT.—The term 'unit of general purpose local government' means a political subdivision of a State, whose authority is general and not limited to only 1 function or combination of related functions.

"Subtitle B—Administration

"SEC. 111. ESTABLISHMENT OF ADMINISTRATION ON AGING.

"(a) ESTABLISHMENT.—There is established in the Office of the Secretary, an Administration on Aging, which shall be headed by an Assistant Secretary for Aging. This Act shall be administered through the Administration, acting under the supervision of the Secretary.

~~"(b) ASSISTANT SECRETARY.—The Assistant Secretary shall be appointed by the President by and with the advice and consent of the Senate.~~

~~"(c) DESIGNATION RELATING TO THE ADMINISTRATION OF THE STATE LONG-TERM CARE OMBUDSMAN PROGRAM.—The Assistant Secretary shall designate an employee of the Administration who shall be responsible, under the supervision of the Assistant Secretary, for the administration of the State long-term care ombudsman program carried out under this Act.~~

~~"(d) DESIGNATION RELATING TO THE ADMINISTRATION OF THE SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM.—The Assistant Secretary shall designate an employee of the Administration who shall be responsible, under the supervision of the Assistant Secretary, for the administration of subtitle C of title II.~~

~~"(e) DESIGNATION RELATING TO THE ADMINISTRATION OF NUTRITION SERVICES.—~~

~~"(1) IN GENERAL.—The Assistant Secretary shall designate an employee of the Administration who shall be responsible, under the supervision of the Assistant Secretary, for the administration of subtitle C of title III.~~

~~"(2) QUALIFICATIONS.—The employee described in paragraph (1) shall—~~

~~"(A) have expertise in nutrition and dietary services and planning; and~~

~~"(B)(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.~~

~~"(f) DESIGNATION RELATING TO THE ADMINISTRATION OF PROGRAMS AFFECTING NATIVE AMERICANS.—The Assistant Secretary shall designate an employee of the Administration who has expertise with respect to programs and services affecting Native Americans, to be responsible, under the supervision of the Assistant Secretary, for the administration of title IV and for coordination of other programs, projects, and activities carried out under this Act that affect Native Americans.~~

~~"SEC. 112. FUNCTIONS OF THE ASSISTANT SECRETARY.~~

~~"(a) DUTIES.—The duties of the Assistant Secretary are as follows:~~

~~"(1) ADMINISTRATION.—The Assistant Secretary shall effectively carry out this Act by administering grants made and contracts entered into~~

~~under this Act, and carrying out programs under this Act.~~

~~"(2) TECHNICAL ASSISTANCE TO STATES, POLITICAL SUBDIVISIONS, AND TRIBAL ORGANIZATIONS.—The Assistant Secretary shall provide technical assistance to, and consult with, States, political subdivisions of States, and tribal organizations, with respect to programs for older individuals and aging.~~

~~"(3) ASSISTANCE TO SECRETARY.—The Assistant Secretary shall directly assist the Secretary in all matters pertaining to problems of older individuals and aging.~~

~~"(4) COORDINATION OF AND ASSISTANCE IN PLANNING.—The Assistant Secretary shall coordinate, and assist in, the planning and development by public agencies (including Federal, State, and local agencies and tribal organizations) and private agencies and organizations of programs for older individuals to facilitate the establishment of a nationwide network of comprehensive, coordinated services, and opportunities, for older individuals.~~

~~"(5) STATISTICAL DATA REGARDING ASSISTED ACTIVITIES.—The Assistant Secretary shall collect, for each fiscal year beginning after September 30, 1996, directly or by contract, statistical data regard-~~

~~ing services and activities provided with funds made available under this Act, including—~~

~~"(A) with respect to each type of service or activity provided with such funds (except any service or activity relating to the State long-term care ombudsman program described in subtitle B of title II)—~~

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

~~"(ii) the unduplicated number of individuals who received such service or participated in such activity;~~

~~"(iii) the unduplicated number of minority individuals who received such service or participated in such activity; and~~

~~"(iv) the number of units of such service or activity provided;~~

~~"(B)(i) State long-term care ombudsman program data, including numbers, types, and disposition of cases and complaints;~~

~~"(ii) major institutional care issues identified and addressed by the State long-term care ombudsman program; and~~

~~"(iii) data on the statewide program development, operations, and outreach of such program; and~~

~~"(C) the number of multipurpose senior centers that received such funds.~~

~~"(6) UNIFORM DATA COLLECTION PROCEDURES.—The Assistant Secretary, in order to facilitate the collection of data described in paragraph (5), shall, not later than 1 year after the date of enactment of the Older Americans Amendments of 1996—~~

~~"(A) design and implement uniform data collection procedures for use by State agencies, including—~~

~~"(i) standardized data collection procedures;~~

~~"(ii) procedures for collecting information on gaps in services needed by older individuals, as identified by service providers who assist older individuals by providing, collectively, supportive services and nutrition services; and~~

~~"(iii) procedures for assessing the unmet need for services provided under this Act; and~~

~~"(B) prescribe uniform definitions and nomenclature for the categories of data to be collected (including standard definitions of terms, such as the term 'resolution of a complaint', to be used under the State long-term care ombudsman program described in subtitle B of title II).~~

~~"(7) ADVOCACY.—The Assistant Secretary shall 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 of and commenting on all Federal policies affecting older individuals.~~

~~"(8) INFORMATION ON COMMUNITY RESOURCES.—The Assistant Secretary shall establish and operate, directly or by grant or contract, a nationwide toll-free telephone line that provides information and assistance that—~~

~~"(A) enable individuals to locate community resources that may be available to older individuals and their caregivers; and~~

~~"(B) build on, support, and are fully coordinated with the activities of State agencies and area agencies on aging.~~

~~"(b) FEDERAL AGENCY CONSULTATION.—The Assistant Secretary, in carrying out the purpose and provisions of this Act, shall coordinate activities with, advise, consult with, and cooperate with the head of each department, agency, or instrumentality of the Federal Government proposing or administering a program or service substantially related to the purpose of this Act, with respect to such program or service. The Assistant Secretary, in carrying out this Act, may request the technical assistance and cooperation of the heads of such departments, agencies, and instrumentalities of the Federal Government as the Assistant Secretary considers to be appropriate. The head of each department, agency, or instrumentality of the Federal Government proposing to establish or modify any program or service substantially related to the purpose of this Act shall coordinate activities, consult, and cooperate with the Assistant Secretary, with respect to such program or service.~~

~~"(c) POWERS.—In carrying out this Act, the Assistant Secretary may exercise the following powers:~~

~~"(1) CONSULTATION; TECHNICAL ASSISTANCE.—The Assistant Secretary may consult with and provide technical assistance to public or nonprofit private agencies, organizations, and institutions.~~

~~"(2) TRAINING, TECHNICAL INSTRUCTION.—The Assistant Secretary may provide short-term training and technical instruction.~~

~~"(3) GRANTS AND CONTRACTS.—~~

~~"(A) IN GENERAL.—The Assistant Secretary, using funds appropriated under section 118(b)(1), may make grants to States, public or nonprofit private agencies, organizations, and institutions, and tribal organizations, and may enter into contracts with such agencies, organizations, and institutions, and with individuals, for activities—~~

~~"(i) to design, to test, and to promote utilization of innovative ideas and best practices in programs and services for older individuals;~~

~~"(ii) to help meet the needs for trained personnel in fields related to aging; and~~

~~"(iii) to increase the awareness of citizens of all ages of the need to assume personal responsibility for their aging through—~~

~~"(I) education and training to develop an adequately trained~~

workforce to work with and on behalf of older individuals;

"(II) research and policy analysis to improve access to and delivery of services for older individuals;

"(III) development of methods and practices to improve quality and effectiveness of such services;

"(IV) demonstration of new approaches to design, delivery, and coordination of services and activities for older individuals;

"(V) technical assistance in planning, development, implementation, evaluation, and improvement of programs, projects, and activities under this Act; and

"(VI) dissemination of information on issues related to aging and their impact on individuals and society and information relating to services and activities benefiting older individuals.

"(B) APPLICATION.—To be eligible to receive a grant or enter into a contract under this

~~paragraph, an entity or individual shall submit an application to the Assistant Secretary at such time, in such form, and containing such information as the Secretary may by rule require.~~

~~"(4) MEASUREMENT AND EVALUATION.—~~

~~"(A) IN GENERAL.—The Assistant Secretary may provide for the measurement and evaluation of—~~

~~"(i) the impact of all activities authorized under this Act;~~

~~"(ii) the effectiveness of the activities in achieving stated goals of the activities, in general and in relation to the cost of the activities;~~

~~"(iii) the impact of the activities on related programs;~~

~~"(iv) the effectiveness of the activities in targeting for services under this Act older individuals with the greatest economic need and older individuals with the greatest social need; and~~

~~"(v) the structure and mechanisms of the activities for delivery of services, including, where appropriate, comparisons~~

~~with delivery of services to appropriate control groups, composed of persons who have not participated in such activities.~~

~~"(B) PERSONS CONDUCTING MEASUREMENT AND EVALUATION.—Measurement and evaluation of activities under subparagraph (A) shall be conducted by persons who are not immediately involved in the administration of the activities.~~

~~"(5) NATIONAL CENTER ON ELDER ABUSE.—The Assistant Secretary may provide, through grants or contracts, for the operation of a National Center on Elder Abuse (referred to in this paragraph as the 'Center') to—~~

~~"(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.

"SEC. 113. REPORTS.

"(a) IN GENERAL.—Not later than 120 days after the end of each fiscal year beginning after September 30, 1996, the Assistant Secretary shall prepare and submit to the President and to Congress a complete report on the programs, projects, and activities carried out under this Act in such fiscal year.

"(b) CONTENTS.—Such report shall include—

"(1) statistical data on services and activities provided under this Act for older individuals during the fiscal year for which such report is submitted;

~~"(2) statistical data collected under section 112(a)(5); and~~

~~"(3) statistical data, and an analysis of information, regarding the effectiveness of the State agencies 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.~~

~~"SEC. 114. REDUCTION OF PAPERWORK.~~

~~"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 employees of the Administration for information under this Act and shall 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 determines to be essential to carry out the purpose and provisions of this Act and, in gathering such information, shall make use of uniform definitions and nomenclature to the extent that such definitions and nomenclature are available.~~

“SEC. 115. SURPLUS PROPERTY ELIGIBILITY.

“Any State or local government agency, and any non-profit private organization or institution, that receives funds appropriated for an activity for older individuals under this Act, under title IV or XX of the Social Security Act (42 U.S.C. 601 et seq. or 1397 et seq.), under title VIII or X of the Economic Opportunity Act of 1964 (42 U.S.C. 2991 et seq. or 2996 et seq.), or under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.), shall be deemed eligible to receive for such activity, property that is declared surplus to the needs of the Federal Government in accordance with laws applicable to surplus property.

“SEC. 116. TREATMENT OF COSTS.

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

“SEC. 117. DISASTER RELIEF.

“(a) RESERVATION OF AMOUNTS.—At the beginning of each fiscal year, the Assistant Secretary shall reserve a portion equal to .06 percent of the total amount appropriated under subsections (d) and (e) of section 122 for such fiscal year, to provide assistance to entities under this section.

~~"(b) ASSISTANCE.—The Assistant Secretary may provide assistance to eligible entities for the delivery of supportive services, nutrition services, and related supplies during any major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122 et seq.).~~

~~"(c) ELIGIBLE ENTITIES.—To be eligible to receive assistance under this section, an entity shall be a recipient of funding under this Act (other than this section).~~

~~"(d) APPLICATIONS.—To be eligible to receive assistance 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.~~

~~"(e) UNUSED FUNDS.—Funds that are reserved under subsection (a) for a fiscal year and that are not distributed by the end of the fiscal year shall be allotted to States as provided in section 121(c), for use in the following fiscal year.~~

~~"(f) CLARIFICATION.—Nothing in this section shall be construed to prohibit recipients of assistance under this section from making expenditures for disaster relief for older individuals, in excess of amounts provided under this section, by using funds made available to the recipients~~

under another section of this Act, under another provision of Federal or State law, or from a private source.

"SEC. 118. AUTHORIZATION OF APPROPRIATIONS.

"(a) ADMINISTRATION.—There are authorized to be appropriated to the Administration to carry out this Act (except to make grants and enter into contracts under paragraph (3) or (5) of section 112(c) and to carry out section 112(a)(8)) such sums as may be necessary for fiscal years 1997 through 2001.

"(b) INNOVATIVE APPROACHES AND BEST PRACTICES; INFORMATION ON COMMUNITY RESOURCES; NATIONAL CENTER ON ELDER ABUSE.—There are authorized to be appropriated to the Administration to carry out paragraphs (3) and (5) of section 112(c) and section 112(a)(8) such sums as may be necessary for fiscal years 1997 through 2001.

"Subtitle C—Funding

"SEC. 121. ALLOTMENTS; FEDERAL SHARE.

"(a) ALLOTMENT OF FUNDS FOR OMBUDSMAN PROGRAM.—

"(1) POPULATION.—In carrying out the program described in subtitle B of title II, the Assistant Secretary shall initially allot to each State, from the funds appropriated under section 122(a) 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 subparagraph (B).~~

~~"(B) GENERAL MINIMUM ALLOTMENTS.—No State shall be allotted less than one-half of 1 percent of the funds appropriated under section 122(a) for the fiscal year for which the determination is made.~~

~~"(C) DEFINITION.—For the purposes of this paragraph, the term 'State' does not include Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.~~

~~"(b) ALLOTMENT OF FUNDS FOR SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM.—~~

~~"(1) RESERVATION OF FUNDS FOR TRIBAL ORGANIZATIONS.—Of the amount appropriated under section 122(b) for each of fiscal years 1997 through 2001, the Assistant Secretary shall reserve not more~~

~~than 1.3 percent for making grants under subtitle C of title II to tribal organizations.~~

~~"(2) ALLOTMENT OF FUNDS FOR FISCAL YEARS 1997 THROUGH 2001.—~~

~~"(A) ALLOTMENT.—After reserving funds under paragraph (1), the Assistant Secretary shall allot the remainder of the amount appropriated under section 122(b) for each of fiscal years 1997 through 2001 among the States as follows:~~

~~"(i) FISCAL YEARS 1997 THROUGH 1999.—For each of fiscal years 1997, 1998, and 1999—~~

~~"(I) the product of the remainder for such fiscal year and the base percentage rate for such fiscal year shall be allotted among the States proportionately based on their respective shares of the funds appropriated for fiscal year 1995 and allotted for the States to carry out title V (as in effect on the day before the date of enactment of the Older Americans Amendments of 1996); and~~

~~"(II) the balance of the amount appropriated under section 122(b) for such fiscal year shall be allotted in accordance with subparagraph (C).~~

~~"(ii) FISCAL YEARS 2000 AND 2001.—After reserving funds under paragraph (1), the Assistant Secretary shall allot the balance of the amount appropriated under section 122(b) for each of fiscal years 2000 and 2001 in accordance with subparagraph (C).~~

~~"(B) BASE PERCENTAGE RATES.—For purposes of subparagraph (A)(i)(I), the base percentage rates shall be the following:~~

~~"Fiscal year:~~	~~Base percentage rate:~~
~~1997~~	~~60 percent~~
~~1998~~	~~40 percent~~
~~1999~~	~~20 percent.~~

~~"(C) ALLOTMENTS BASED ON AGE AND PER CAPITA INCOME.—Each balance referred to in clauses (i)(II) and (ii) of subparagraph (A) shall be allotted as follows:~~

~~"(i) ALLOTMENT.—Subject to clause (ii), each State shall be allotted the amount that bears the same ratio to the balance as the product of the number of individuals 55 years of age or older in the~~

~~State and the allotment percentage of the State bears to the sum of the corresponding products for all the States.~~

~~"(ii) REDUCTION.—The amounts allotted under clause (i) shall be reduced proportionately to the extent necessary to increase other allotments made under such clause to achieve the following:~~

~~"(I) STATES.—Each State shall be allotted not less than ½ of 1 percent of the balance for the fiscal year for which the determination is made.~~

~~"(II) OTHER JURISDICTIONS.—Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than ¼ of 1 percent of the balance for the fiscal year for which the determination is made or $50,000, whichever is greater.~~

~~"(D) ALLOTMENT PERCENTAGE.—For purposes of subparagraph (C)(i)—~~

~~"(i) except as provided in clauses (ii) through (iv), the allotment percentage of~~

~~each State shall be 100 percent less the percentage that bears the same ratio to 50 percent as the per capita income of the State bears to the per capita income of all the States;~~

~~"(ii) the allotment percentage for each State shall be not more than 75 percent and not less than 33⅓ percent;~~

~~"(iii) the allotment percentage for Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands shall be 75 percent; and~~

~~"(iv) subject to clause (ii), the allotment percentage for a State whose allotment percentage is not adjusted under clause (ii) or (iii) shall be adjusted proportionately to the extent necessary to achieve the percentages required under such clauses.~~

~~"(E) LIMITATION.—For purposes of subparagraphs (C)(ii)(I) and (D)(i), the term 'State' does not include Guam, American Samoa, the Virgin Islands of the United States,~~

~~or the Commonwealth of the Northern Mariana Islands.~~

~~"(F) POPULATION AND PER CAPITA INCOME DETERMINATIONS.—For purposes of this paragraph, the number of individuals 55 years of age or older in each State, and the per capita income of each State, 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.~~

~~"(c) ALLOTMENT OF FUNDS FOR SUPPORTIVE SERVICES AND MULTIPURPOSE SENIOR CENTERS, AND NUTRITION SERVICES.—~~

~~"(1) ALLOTMENT OF FUNDS FOR FISCAL YEARS 1997 THROUGH 2001.—~~

~~"(A) ALLOTMENT.—Subject to subparagraphs (B) and (C), after reserving funds under section 117, the Assistant Secretary shall allot the remainder of the sum of the amounts appropriated under subsections (d) and (e) of section 122 for each of fiscal years 1997 through 2001 among the States as follows:~~

~~"(i) FISCAL YEARS 1997 THROUGH 2000.—For each of fiscal years 1997, 1998, 1999, and 2000—~~

~~"(I) the product of such remainder for such fiscal year and the base percentage rate for such fiscal year shall be allotted among the States proportionately based on their respective shares of the funds appropriated for fiscal year 1996 and allotted for the States to carry out titles III and VII (as in effect on the day before the date of enactment of the Older Americans Amendments of 1996); and~~

~~"(II) the balance of such remainder for such fiscal year shall be allotted among the States proportionately based on their respective shares of the population of individuals 60 years of age or older in the States.~~

~~"(ii) BASE PERCENTAGE RATES.—For purposes of clause (i)(I), the base percentage rates shall be the following:~~

~~"Fiscal year:~~	~~Base percentage rate:~~
~~1997~~	~~80 percent~~
~~1998~~	~~60 percent~~
~~1999~~	~~40 percent~~
~~2000~~	~~20 percent.~~

~~"(iii) FISCAL YEAR 2001.—Such remainder for fiscal year 2001 shall be allotted among the States proportionately based on their respective shares of the population of individuals 60 years of age or older in the States.~~

~~"(B) REDUCTION.—The amounts allotted under subparagraph (A) shall be reduced proportionately to the extent necessary to increase other allotments made under such subparagraph to achieve the following:~~

~~"(i) STATES.—Each State shall be allotted not less than ½ of 1 percent of the remainder described in subparagraph (A) for the fiscal year for which the determination is made.~~

~~"(ii) GUAM; VIRGIN ISLANDS.—Guam and the Virgin Islands of the United States shall each be allotted not less than ¼ of 1 percent of the remainder described in subparagraph (A) for the fiscal year for which the determination is made.~~

~~"(iii) AMERICAN SAMOA; NORTHERN MARIANA ISLANDS.—American Samoa and the Commonwealth of the Northern Mari-~~

~~ana Islands shall each be allotted not less than 1/16 of 1 percent of the remainder described in subparagraph (A) for the fiscal year for which the determination is made.~~

~~"(C) LIMITATION.—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.~~

~~"(D) POPULATION DETERMINATIONS.—For purposes of this paragraph, the number of individuals 60 years of age or older in each State 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) FEDERAL SHARE REQUIREMENT.—~~

~~"(A) IN GENERAL.—A State that receives an allotment under this subsection for a fiscal year shall use funds made available through the allotment to pay for the Federal share of the cost of carrying out subtitles B and C of title III for such fiscal year.~~

~~"(B) FEDERAL SHARE.—The Federal share of the cost of carrying out such subtitles shall be not more than 85 percent.~~

~~"(C) NON-FEDERAL SHARE.—The non-Federal share of such cost shall be contributed 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.~~

~~"(d) PERMITTED USE OF ALLOTMENTS.—~~

~~"(1) ADMINISTRATION OF STATE PLANS.—~~

~~"(A) STATES.—Except as provided in subparagraph (B), an amount equal to the greater of 5 percent, or $500,000, of the aggregate of the allotments made to a State under subsections (a) and (c) for a fiscal year shall be available to the State to use for such fiscal year in accordance with section 203(a).~~

~~"(B) OTHER JURISDICTIONS.—In the case of allotments made under subsections (a) and (c) to Guam, American Samoa, the Virgin Islands of the United States, or the Commonwealth of the Northern Mariana Islands, an amount equal to the greater of 5 percent, or~~

~~$100,000, of the aggregate of such allotments for a fiscal year shall be available to the State to use for such fiscal year in accordance with section 203(a).~~

~~"(2) APPLICATION TO USE ADDITIONAL FUNDS.—~~

~~"(A) DETERMINATION.—If a State submits an application in which the State requests permission to use additional funds, above the amount that would otherwise be permitted under paragraph (1), from the aggregate of the allotments described in paragraph (1)(A) in accordance with section 203(a), the Assistant Secretary may approve the application if the Assistant Secretary determines, based on a particularized showing of need, that—~~

~~"(i) the State will be unable to fully and effectively administer the State plan of the State submitted under section 202 and to carry out programs, projects, and activities authorized under subtitle B of title II, and subtitles B and C of title III, unless the additional funds are made available by the Assistant Secretary;~~

~~"(ii) the State is making full and effective use of the allotments described in paragraph (1)(A) and of the personnel of the State agency and area agencies on aging in the administration of the State plan in accordance with section 203(a); and~~

~~"(iii) the State agency and area agencies on aging are carrying out, on a full-time basis, programs, projects, and activities that are in furtherance of the objectives of subtitle B of title II and subtitles B and C of title III.~~

~~"(B) PART OF ADDITIONAL FUNDS.—Subject to subparagraph (C), the Assistant Secretary may approve any part of the additional funds requested in such application that the Assistant Secretary determines is justified in such application.~~

~~"(C) LIMIT ON AMOUNT.—The additional funds available under this paragraph to a particular State for any fiscal year may not exceed ¾ of 1 percent of the aggregate of the allotments described in paragraph (1)(A) that are provided to the State for such fiscal year.~~

~~"(D) ASSURANCES.—~~

~~"(i) IN GENERAL.—The Assistant Secretary may not approve an application submitted under subparagraph (A) by a State unless the application contains the assurance described in clause (ii).~~

~~"(ii) PROHIBITION ON REPLACEMENT OF EMPLOYEES WITH PARTICIPANTS SUPPORTED UNDER THIS ACT.—The application shall contain an assurance that the State will not use any funds made available under this subsection for the uses described in subparagraph (A) to hire any individual to fill a job opening created by an action of the State that consists of laying off or terminating the employment of any regular employee not supported under this Act in anticipation of filling the job opening so created by hiring a participant to be supported through use of such funds.~~

~~"(3) ADDITIONAL USE.—Of the amount that is made available to a State through allotments made under subsections (a) and (c) for a fiscal year and that remains after the application of paragraphs (1) and (2), such part as the State agency determines~~

~~to be appropriate, but not more than 10 percent of such remaining amount, may be used to pay such percentage as the State agency determines to be appropriate, but not more than 85 percent, of the administrative costs incurred to carry out area plans submitted in accordance with section 302.~~

~~(4) OMBUDSMAN PROGRAM.—Of the amount that is made available to a State for supportive services (including services to support multipurpose senior centers) through an allotment made under subsection (c) for a fiscal year and that remains after the application of paragraphs (1), (2), and (3), such amount as the State agency determines to be adequate for conducting an effective ombudsman program in accordance with subtitle B of title II shall be available for conducting such program.~~

~~"(5) REALLOTMENT.—If any part of the amount allotted under a subsection of this section to a State for a fiscal year is not distributed to the State for such fiscal year, such part shall be reallotted under such subsection for such fiscal year to the remaining eligible States.~~

~~"SEC. 122. AUTHORIZATION OF APPROPRIATIONS.~~

~~"(a) STATE LONG-TERM CARE OMBUDSMAN PROGRAM.—There are authorized to be appropriated to carry~~

~~out subtitle B of title II, such sums as may be necessary for fiscal years 1997 through 2001.~~

~~"(b) SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM.—There are authorized to be appropriated to carry out subtitle C of title II, such sums as may be necessary for fiscal years 1997 through 2001.~~

~~"(c) DISEASE PREVENTION AND HEALTH PROMOTION.—There are authorized to be appropriated to carry out subtitle D of title II, such sums as may be necessary for fiscal years 1997 through 2001.~~

~~"(d) SUPPORTIVE SERVICES AND SENIOR CENTERS.—There are authorized to be appropriated to carry out subtitle B of title III, such sums as may be necessary for fiscal years 1997 through 2001.~~

~~"(e) NUTRITION SERVICES.—There are authorized to be appropriated to carry out subtitle C of title III, such sums as may be necessary for fiscal years 1997 through 2001.~~

~~"(f) PROGRAM YEAR AND EXTENSIONS.—~~

~~"(1) PROGRAM YEAR.—Amounts appropriated under subsection (b) for any fiscal year shall be used during the annual period that—~~

~~"(A) begins on July 1 of the calendar year immediately following the beginning of such fiscal year; and~~

"(B) ends on June 30 of the following calendar year.

"(2) EXTENSIONS.—If, in accordance with section 121(d)(5), any part of an allotment is reallotted to a State for a fiscal year, such part shall be considered to be a portion of the appropriate allotment of the State for the fiscal year, but shall remain available until the end of the succeeding fiscal year.

"SEC. 123. ADDITIONAL FUNDS AVAILABLE FOR NUTRITION SERVICES.

"(a) FUNDS AVAILABLE.—There are authorized to be appropriated to the Secretary of Agriculture (in addition to the amount appropriated to the Secretary of Health and Human Services under section 122(c)) to provide nutrition services under subtitle C of title III $156,625,000 for fiscal year 1997 and such sums as may be necessary for fiscal years 1998 through 2001.

"(b) DIVISION OF FUNDS.—The Secretary of Agriculture shall divide the funds that are made available under subsection (a) so that—

"(1) 98.9 percent of such funds is allotted to States in accordance with subsection (c) to provide nutrition services under subtitle C of title III; and

"(2) the balance is available to make grants under title IV to provide nutrition services.

~~"(c) ALLOTMENT.—In providing funds for nutrition services under subsection (b)(1) for a fiscal year, the Secretary of Agriculture shall determine a per meal rate equal to the amount appropriated under subsection (a) for the fiscal year, divided by the number of meals served in the preceding fiscal year. The Secretary of Agriculture shall allot to each State, for the fiscal year for which the determination is made, the product of the per meal rate and the number of meals served in the State in the preceding fiscal year.~~

~~"(d) RECEIPT OF COMMODITIES IN LIEU OF CASH.—A State or area agency on aging that receives funds allotted under subsection (b)(1), or a recipient of a grant referred to in subsection (b)(2), may elect to enter into an agreement with the Secretary of Agriculture to purchase commodities with all or part of such funds or of the funds made available through such grant, through authorities including section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c), section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), and section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a–1).~~

~~"TITLE II—STATE PROGRAMS ON AGING~~

~~"Subtitle A—General Provisions~~

~~"SEC. 201. ELIGIBILITY OF STATES.~~

~~"(a) ELIGIBILITY OF STATES.—For a State to be eligible to receive funds allotted under subsection (a) or (c) of section 121, or assistance available under section 123 or 231—~~

~~"(1) the State shall, in accordance with rules issued by the 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 202;~~

~~"(B) administer the State plan within the State;~~

~~"(C) be responsible for the planning, policy development, administration, coordination, priority setting, and evaluation of all activities specified in the State plan and related to carrying out subtitles B and C, and subtitles B and C of title III;~~

~~"(D) serve as an effective and visible advocate for older individuals by reviewing and commenting on all State plans, budgets, and poli-~~

~~cies that affect older individuals, and provide technical assistance to any agency, organization, or association representing the needs of older individuals; and~~

~~"(E) except as provided in subsection (c)—~~

~~"(i) divide the State into distinct planning and service areas, after considering—~~

~~"(I) the geographical distribution of older individuals in the State;~~

~~"(II) the incidence of the need for supportive services (including services to support multipurpose senior centers) and nutrition services;~~

~~"(III) the distribution of older individuals who have the greatest economic need or the greatest social need;~~

~~"(IV) the distribution of resources available to provide the services and centers described in subclause (II);~~

~~"(V) the boundaries of existing (as of the date of the division) plan-~~

~~ning and service areas within the State;~~

~~"(VI) the characteristics of the local government within the State; and~~

~~"(VII) other relevant factors; or~~

~~"(ii) designate the entire State as a single planning and service area; and~~

~~"(2) the State agency shall—~~

~~"(A) designate an area agency on aging for each planning and service area;~~

~~"(B) take into account in the development and administration of the State plan for any fiscal year, the views of—~~

~~"(i) recipients of services through the State long-term care ombudsman program, community service employment, supportive services, or nutrition services, as the case may be, provided under such plan; and~~

~~"(ii) individuals using multipurpose senior centers provided under such plan;~~

~~"(C) after consultation with area agencies on aging and using the best available data, develop and publish for review and comment a formula for distribution within the State of~~

~~funds received to carry out subtitles B and C of title III 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; and~~

~~"(D) provide an assurance that the State will give preference, in providing services under subtitles B and C, and subtitles B and C of title III, to older individuals with greatest economic need and older individuals with greatest social need, with particular attention to low-income minority individuals, and include in the State plan proposed methods of carrying out the preference.~~

~~"(b) DUE PROCESS.—~~

~~"(1) IN GENERAL.—A State agency shall establish and publish, after consultation with area agencies on aging, procedures that the State agency shall follow to provide due process to affected parties if the State agency initiates an action or proceeding to change the designation of any designated planning~~

~~and service area or of any designated area agency on aging.~~

~~"(2) PROCEDURES.—At a minimum, such procedures shall include procedures for—~~

~~"(A) providing notice of an action to change the designation of a designated planning and service area or of a designated area agency on aging;~~

~~"(B) providing documentation of the need for such action; and~~

~~"(C) at the request of the area agency on aging, conducting a public hearing concerning such action.~~

~~"(c) GRANDFATHER PROVISION.—A State that on or before October 1, 1980, had designated, with the approval of the Commissioner on Aging, 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 such date designate 1 or more additional planning and service areas within the State to be administered by public or nonprofit private agencies, organizations, or institutions as area agencies on aging. 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.~~

~~"(d) INTERSTATE PLANNING AND SERVICE AREAS.—The chief executive officer of each State that contains a region of an interstate geographic area or of an interstate Indian reservation, may apply to the Assistant Secretary to request redesignation of the geographic area or reservation as an interstate planning and service area. If the Assistant Secretary approves the application, the Assistant Secretary shall adjust the allotment of each State containing a region of the interstate planning and service area, to reflect the number of older individuals within the region.~~

~~"(e) NONDESIGNATION OF INDIAN RESERVATIONS.—If a State declines to designate an Indian reservation as a planning and service area, the Indian tribe residing on the reservation may appeal the decision of the State to the Assistant Secretary. The Assistant Secretary may order the State to designate the Indian reservation as a planning and service area as a condition of receiving funding under this Act.~~

~~"SEC. 202. STATE PLANS.~~

~~"(a) PLAN.—Each State, in order to be eligible for grants from the allotment made for the State under subsection (a), (b), or (c) of section 121, or assistance avail-~~

able under section 123 or 231, for any fiscal year, shall prepare and submit to the Assistant Secretary a State plan, which incorporates input from area agencies on aging in the State, for a 2-, 3-, or 4-year period determined by the State agency, with such annual revisions as are necessary. Each such plan shall comply with all of the following requirements:

"(1) UNIFORM AREA PLAN FORMAT.—The plan shall contain assurances that the State plan will be based on area plans developed by area agencies on aging within the State and that the State will prepare and distribute a uniform format for use by area agencies on aging in developing area plans under section 302.

"(2) APPROVAL OF AREA PLAN.—The plan shall provide that each such area agency on aging will prepare, develop, and submit to the State agency for approval an area plan that complies with section 302.

"(3) HEARINGS.—The plan shall provide that the State agency will establish a grievance procedure that will afford an opportunity for a hearing on request to any area agency on aging submitting a plan under section 302, to any provider of a service under such a plan, or to any applicant to provide a service

~~under such a plan. The State agency shall establish and publish the procedures for requesting and conducting such hearing.~~

~~"(4) FISCAL CONTROL AND FUND ACCOUNTING; CONFLICTS OF INTEREST.—~~

~~"(A) FISCAL CONTROL AND FUND ACCOUNTING PROCEDURES.—The plan shall provide a satisfactory assurance that the State will adopt such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, funds made available through allotments made under subsections (a), (b), and (c) of section 121, and assistance made available under section 123 or 231, to the State, including any such funds paid to the recipients of a grant or contract with the State.~~

~~"(B) CONFLICTS OF INTEREST.—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 in the State, or in the designation of the head of the State agency, such an area agency on aging, or any subdivision of the~~

~~State agency or of such 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 in the State is subject to a conflict of interest prohibited under this Act; and~~

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

~~"(C) INTEGRITY, PUBLIC PURPOSE, ENHANCEMENT.—The plan shall provide assurances that the State agency and each area agency on aging in the State will—~~

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

~~"(ii) demonstrate that the quantity or quality of the services to be provided under the State plan will be enhanced as a result of such contract or such relationship.~~

~~"(5) INFORMATION AND ASSISTANCE SERVICES.—~~

~~"(A) IN GENERAL.—It shall be a primary responsibility of the State agency to ensure that the plan provides for establishing and maintaining information and assistance services in sufficient numbers to ensure, to the maximum extent practicable, that all older individuals in the State who are not furnished adequate information and assistance services under section 302(a)(3) will have reasonably convenient access to such services.~~

~~"(B) INSURANCE BENEFITS AND PUBLIC BENEFITS.—The plan shall contain an assurance that each area agency on aging in the State, in providing information and assistance services—~~

~~"(i) will carry out a program for provision of outreach, counseling, and assistance to aid older individuals in obtaining insurance benefits and public benefits; and~~

~~"(ii) will expend, to carry out the program, a specific percentage, stated in the State plan, of the agency's share of funds~~

~~made available under section 122(d) and allotted to the State under section 121(c).~~

~~"(6) LIMITATIONS.—~~

~~"(A) PROHIBITION ON DIRECT PROVISION OF SERVICES.—Except as provided in subparagraphs (B) and (C) and section 302(e)(3), the plan shall provide that no supportive services or nutrition services, including home-delivered services, will be directly provided by the State agency or an area agency on aging.~~

~~"(B) ADMINISTRATIVE EXCEPTIONS.—Subparagraph (A) shall not apply when, in the judgment of the State agency—~~

~~"(i) provision of services described in subparagraph (A) by the State agency or an area agency on aging is necessary to ensure an adequate supply of such services;~~

~~"(ii) such services are directly related to the administrative functions of the State agency or area agency on aging; or~~

~~"(iii) such services of comparable quality can be provided more economically by the State agency or area agency on aging.~~

~~"(C) EXCEPTION FOR CERTAIN SERVICES.—Subparagraph (A) shall not apply with respect to information and assistance services, case management services, and outreach.~~

~~"(7) STATE LONG-TERM CARE OMBUDSMAN PROGRAM.—The plan shall provide assurances that the State agency will carry out a State long-term care ombudsman program that complies with all the requirements specified in subtitle B.~~

~~"(8) LEGAL ASSISTANCE.—The plan shall contain assurances, with respect to legal assistance, that each area agency on aging in the State will—~~

~~"(A) expend, for the delivery of legal assistance, a specific percentage, stated in the State plan, of the agency's share of funds made available under section 122(d) and allotted to the State under section 121(c); and~~

~~"(B)(i) enter into contracts with providers of legal assistance that can demonstrate the experience or capacity to deliver legal assistance; and~~

~~"(ii) attempt to involve private attorneys in legal assistance activities authorized under subtitle B of title III, including groups among private attorneys who are furnishing services to~~

~~older individuals on a pro bono basis or on a reduced fee basis.~~

~~"(9) PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION.—Whenever the State desires to provide for programs for the prevention of elder abuse, neglect, and exploitation for a fiscal year, the plan shall—~~

~~"(A) contain an assurance that each area agency on aging in the State will expend, to carry out a program for the prevention of elder abuse, neglect, and exploitation, a specific percentage, stated in the State plan, of the agency's share of funds made available under section 122(d) and allotted to the State under section 121(c);~~

~~"(B) contain an assurance that the State has in effect laws relating to elder abuse, neglect, and exploitation that include provisions for immunity for persons who report instances of elder abuse, neglect, and exploitation, from prosecution under any State or local law arising out of such reporting;~~

~~"(C) contain an assurance that individuals who provide services to prevent elder abuse, ne-~~

~~glect, and exploitation are trained to effectively deal with such reported instances;~~

~~"(D) contain an assurance that involuntary or coerced participation in such program by alleged victims, alleged abusers, or members of the households of alleged victims or alleged abusers will not be permitted;~~

~~"(E) contain an assurance that the State requires that all information gathered in the course of receiving reports on instances of, and of making referrals relating to, elder abuse, neglect, and exploitation remain confidential except—~~

~~"(i) if all parties to the complaint that is the subject of the report or referral 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;~~

~~"(F) contain an assurance that the State agency will make all reasonable efforts to re-~~

~~solve any conflicts with other public agencies with respect to confidentiality of the information described in subparagraph (E);~~

~~"(G) contain an assurance that the State agency will coordinate the State programs for the prevention of elder abuse, neglect, and exploitation with—~~

~~"(i) law enforcement officials;~~

~~"(ii) courts of competent jurisdiction; and~~

~~"(iii) entities carrying out other relevant State and local programs, including—~~

~~"(I) area agencies on aging; and~~

~~"(II) agencies that, collectively, administer adult protective services, 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)), and victim assistance programs, and State agencies responsible for surveys and certification under section~~

~~1919(g) of the Social Security Act (42 U.S.C. 1396r(g));~~

~~"(H) contain an assurance that older individuals participate in decisions under the program regarding their welfare; and~~

~~"(I) specify other activities that the State agency determines to be beneficial in the prevention of elder abuse, neglect, and exploitation and intends to carry out under such program.~~

~~"(10) OUTREACH.—The plan shall provide assurances that the State agency will require outreach efforts that will—~~

~~"(A) identify individuals eligible for assistance under subtitle B or C, or under subtitle B or C of title III, with special emphasis on—~~

~~"(i) older individuals residing in rural areas;~~

~~"(ii) older individuals with greatest economic need;~~

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

~~"(iv) older individuals with severe disabilities;~~

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

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

~~"(vii) low-income minority older individuals; and~~

~~"(B) inform the older individuals referred to in clauses (i) through (vii) of subparagraph (A), and the caretakers of such individuals, of the availability of such assistance.~~

~~"(11) INDIVIDUALS WITH DISABILITIES.—The plan shall provide, with respect to the needs of individuals with disabilities, assurances that the State agency will coordinate planning, identification, assessment of needs, and services for 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).~~

~~"(12) COORDINATION OF COMMUNITY-BASED LONG-TERM CARE SERVICES.—The plan shall provide assurances that area agencies on aging will con-~~

~~duct efforts to facilitate the coordination of community-based long-term care services, pursuant to section 302(a)(5)(G), 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 the individuals.~~

~~"(13) PROHIBITION ON MISUSE OF FUNDS.—The plan shall provide assurances that funds received from allotments made under subsections (a), (b), and (c) of section 121, and assistance made available under section 123 or 231, will not be used to pay any part of a cost (including an administrative cost) incurred by the State or an area agency on aging to carry out a contract or commercial arrangement that is not carried out to implement subtitle B or C, or subtitle B or C of title III.~~

~~"(14) COORDINATION OF SERVICES; PROVISION OF MULTIGENERATIONAL SERVICES.—The plan shall~~

provide assurances that the State will make demonstrable efforts—

"(A) to coordinate services provided under subtitles B and C, and subtitles B and C of title III, 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 programs that, collectively, provide child care, youth day care, educational assistance, at-risk youth intervention, juvenile delinquency treatment, and family support.

"(15) QUALITY ASSURANCE.—The plan shall include assurances that the State has in effect a mechanism to provide for quality in the provision of services under subtitles B and C, and subtitles B and C of title III.

"(16) COST SHARING.—If the State, after consultation with area agencies on aging and service providers, elects to require cost sharing by recipients of services under the State plan (or to require or permit area agencies on aging to require cost sharing by recipients of services under area plans), the plan shall—

~~"(A) provide that no cost sharing shall be required for information and assistance services, outreach, benefits counseling, case management services, or ombudsman or other protective services;~~

~~"(B) exempt from cost-sharing requirements low-income individuals, or individuals with incomes below a reasonable low-income threshold set by the State;~~

~~"(C) set cost-sharing rates for individuals subject to the requirements on a sliding-fee scale based on income;~~

~~"(D) provide that the income of older individuals will be determined by self-declaration;~~

~~"(E) provide that the confidentiality of individual information related to such cost sharing will be maintained at all times; and~~

~~"(F) provide that no older individual will be denied a service under the plan because of inability to pay.~~

~~"(17) SOLICITATION OF VOLUNTARY CONTRIBUTIONS.—The plan shall provide that the State will permit area agencies on aging to permit service providers to solicit, for services provided under the plan, voluntary contributions—~~

~~"(A) in amounts that are based on the ability of older individuals to make such contributions; and~~

~~"(B) that will be used to increase, or expand access to, services provided under the plan.~~

~~"(b) APPROVAL OF STATE PLAN.—The Assistant Secretary shall approve any State plan that fulfills the requirements of subsection (a).~~

~~"(c) DISAPPROVAL OF STATE PLAN.—~~

~~"(1) DETERMINATION FOLLOWING DUE PROCESS.—The Assistant Secretary shall not make a final determination disapproving any State plan, or any revision of a State plan, or make a final determination that a State is ineligible under section 201, without first affording the State reasonable notice and an opportunity for a hearing.~~

~~"(2) WITHHOLDING OF ASSISTANCE.—~~

~~"(A) IN GENERAL.—If the Assistant Secretary makes a determination, in accordance with paragraph (1), disapproving a State plan, the Assistant Secretary shall withhold from the State assistance allotted under subsections (a), (b), and (c) of section 121, and assistance avail-~~

able under section 123 or 231, for the fiscal year for which such plan is submitted.

"(B) DISBURSAL.—

"(i) ENTITY.—The Assistant Secretary shall disburse the assistance withheld under subparagraph (A) directly to a public or nonprofit private agency, organization, or institution, or political subdivision of the State, that submits and obtains approval of a plan described in clause (ii).

"(ii) PLAN.—The plan referred to in clause (i) shall be submitted and approved in accordance with this section.

"(iii) AUTHORITIES AND REQUIREMENTS.—The Secretary shall issue regulations specifying authorities and requirements applicable to States under this Act, including the limitation specified in section 121(c)(2), that shall apply with respect to the use of such funds by the agency, organization, institution, or political subdivision that receives such funds.

"(3) REVIEW BY SECRETARY.—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 appeals such final determination in a timely manner in accordance with subsection (c)(1), the Secretary shall dismiss the appeal filed under this paragraph.~~

~~"(4) APPELLATE REVIEW OF DECISION BY SECRETARY.—~~

~~"(A) IN GENERAL.—If the State is dissatisfied with the decision of the Secretary after review under paragraph (3), the State may appeal such decision in a timely manner in accordance with subsection (c)(1).~~

~~"(B) CONSTRUCTION.—For purposes of appellate review under subparagraph (A), a reference in subsection (c) to the Assistant Secretary shall be deemed to be a reference to the Secretary.~~

~~"(d) NOTIFICATION OF STATE OF INELIGIBILITY OR NONCOMPLIANCE.—~~

~~"(1) IN GENERAL.—~~

~~"(A) FINDING.—The Assistant Secretary shall make the notification described in subparagraph (B) if the Assistant Secretary, after providing reasonable notice and an opportunity for a hearing to the State agency, finds that—~~

~~"(i) the State is not eligible under section 201;~~

~~"(ii) the State plan has been so revised that the plan no longer complies substantially with any provision of subsection (a); or~~

~~"(iii) in the administration of the plan there is a failure to comply substantially with any provision of subsection (a).~~

~~"(B) NOTIFICATION.—~~

~~"(i) IN GENERAL.—On making the finding described in subparagraph (A), the Assistant Secretary shall notify the State agency that no further assistance will be provided to the State from the allotment of the State under subsection (a), (b), or (c) of section 121, or under section 123 or 231, as appropriate (or, in the discretion of the Assistant Secretary, that further assistance to the State under such subsection or section will be limited to projects under the State plan that are not affected by the noncompliance that is the basis for the finding), until the Assistant Secretary is~~

~~satisfied that there will no longer be any ineligibility or failure to comply.~~

~~"(ii) WITHHOLDING OF ASSISTANCE.—Until the Assistant Secretary is so satisfied, no further assistance shall be provided to the State from the allotment of the State under subsection (a), (b), or (c) of section 121, or under section 123 or 231, as appropriate (or, in the discretion of the Assistant Secretary, further assistance to the State under such subsection or section shall be limited to projects described in clause (i) and the remainder of the assistance available for allotment to the State under such subsection or available to the State under such section shall be withheld).~~

~~"(2) USE OF WITHHELD ASSISTANCE.—~~

~~"(A) ELIGIBLE ORGANIZATIONS.—The Assistant Secretary shall, in accordance with rules the Secretary shall issue, disburse the assistance withheld under paragraph (1)(B)(ii) directly to a public or nonprofit private agency, organization, or institution, or political subdivision of the State, that submits and obtains ap-~~

~~proval of a plan in accordance with the provisions of this section.~~

~~"(B) AUTHORITIES AND REQUIREMENTS.—The Secretary shall issue regulations specifying authorities and requirements applicable to States under this Act, including the limitation specified in section 121(c)(2), that shall apply with respect to the use of such funds by the agency, organization, institution, or political subdivision that receives such funds.~~

~~"(c) APPEAL.—~~

~~"(1) IN GENERAL.—A State that is dissatisfied with a final action of the Assistant Secretary under subsection (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 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 shall file in the court the record of the proceedings on which the action of the Assistant Secretary is based, as provided in section 2112 of title 28, United States Code.~~

~~"(2) PROCEDURE.—~~

~~"(A) JURISDICTION.—~~

~~"(i) IN GENERAL.—Except as provided in clause (ii), on the filing of such petition, the court shall have jurisdiction to affirm the order issued by the Assistant Secretary with respect to the action or to set the order aside, in whole or in part, temporarily or permanently.~~

~~"(ii) ACTION OF ASSISTANT SECRETARY.—Until the filing of the record, the Assistant Secretary may modify or set aside the order of the Assistant Secretary.~~

~~"(B) EVIDENCE.—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 the proceedings to obtain such further evidence. The new or modified findings of fact resulting from the proceedings shall likewise be conclusive if supported by substantial evidence.~~

~~"(C) REVIEW.—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 on certiorari or certification as provided in section 1254 of title 28, United States Code.

"(3) NO STAY.—The commencement of proceedings under this subsection shall not operate as a stay of the action of the Assistant Secretary, unless such a stay is specifically ordered by the court.

"(f) PRESERVATION OF ATTORNEY-CLIENT PRIVILEGE.—Neither a State, nor a State agency, may require any provider of legal assistance under subtitle B of title III to reveal any information that is protected by the attorney-client privilege.

"SEC. 203. PLANNING, COORDINATION, EVALUATION, AND ADMINISTRATION OF STATE PLANS.

"(a) GRANTS FOR STATE ACTIVITIES.—

"(1) COST OF ADMINISTRATION OF STATE PLAN.—Amounts available to a State under paragraph (1) or (2) of section 121(d) may be used to make a grant to the State to pay such percentage as the State agency determines, but not more than 85 percent, of the cost of the administration of the State plan of the State, including—

"(A) the preparation of the State plan;

~~"(B) the evaluation of activities carried out under such plan;~~

~~"(C) the collection of data and the carrying out of analyses related to the need for supportive services (including services to support multipurpose senior centers), and nutrition services (taking into consideration the comparative need for home-delivered nutrition services, congregate nutrition services, and adult day care nutrition services), within the State, and dissemination of information obtained through the data collection and analyses;~~

~~"(D) the provision of short-term training to personnel of public or nonprofit private agencies, organizations, and institutions engaged in the operation of programs, projects, and activities authorized by subtitle B, and subtitles B and C of title III; and~~

~~"(E) the carrying out of demonstration projects of statewide significance relating to the initiation, expansion, or improvement of services and activities provided under subtitle B, and subtitles B and C of title III.~~

~~"(2) COST OF ADMINISTRATION OF AREA PLANS.—Any assistance available to a State under~~

~~section 121(d)(1) for part of the cost of the administration of the State plan of the State that the State determines are not needed for such administration may be used by the State to supplement the amount available under section 121(d)(3) to cover part of the cost of the administration of area plans.~~

~~"(3) USE OF FUNDS NOT NEEDED FOR ADMINISTRATION OF STATE PLAN.—The portion of the assistance made available under section 121(d)(1) to a State for any fiscal year, that the State determines will not be required by the State for such year for the purposes described in paragraph (1), shall be available to the State to provide services under subtitle B, or subtitle B or C of title III, in the State.~~

~~"(4) SINGLE PLANNING AND SERVICE AREAS.—Any State that is designated, under section 201(a)(1)(E), as a single planning and service area covering all, or substantially all, of the older individuals in the 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 the amount of funds available under paragraph (1) or (2) of section 121(d) or out of the amount of funds made available for the administration of area~~

~~plans under section 121(d)(3), but shall not pay such costs out of both such amounts.~~

~~"(b) AUTHORITY TO TRANSFER FUNDS.—~~

~~"(1) TRANSFERS.—~~

~~"(A) IN GENERAL.—Notwithstanding any other provision of this subtitle or title III and except as provided in subparagraph (B), using the sums received by a State attributable to funds appropriated under subsection (d) or (e) of section 122, as appropriate, the State (after consultation with area agencies on aging and with service providers) may elect to transfer not more than 25 percent of such sums for any fiscal year between programs under subtitle B of title III and programs under subtitle C of title III, for use as the State considers appropriate. The State shall notify the Assistant Secretary of any such election.~~

~~"(B) WAIVER.—If a State submits an application to the Assistant Secretary in which the State demonstrates, to the satisfaction of the Assistant Secretary, that funds received by the State and attributable to funds appropriated under subsection (d) or (e) of section 122 (including funds transferred under subparagraph~~

~~(A) without regard to this subparagraph) for any fiscal year are insufficient to satisfy the need for services under subtitle B or C of title III, as appropriate, the Assistant Secretary may grant a waiver that permits the State to transfer under subparagraph (A) to satisfy such need an additional 25 percent of the funds so received for such fiscal year.~~

~~"(C) APPLICATION.—At a minimum, the application described in subparagraph (B) shall include a description of the additional amount to be transferred, the purposes of the transfer, the need for the transfer, and the impact of the transfer on the provision of services from which the funding will be transferred. The Assistant Secretary shall approve or deny the application in writing.~~

~~"(2) DELEGATION OF AUTHORITY TO MAKE TRANSFERS.—After consultation with service providers, a State agency may delegate to an area agency on aging or any other entity the authority to make a transfer under paragraph (1).~~

~~"(3) DATA COLLECTION.—The Assistant Secretary shall annually collect, and include in the re-~~

port required by section 113, data regarding the transfers described in paragraph (1), including—

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

"(B) the effect of the transfers on the provision of services provided under—

"(i) subtitle B of title III; and

"(ii) subtitle C of title III, including the effect on the number of meals served.

"SEC. 204. PAYMENTS.

"Payments provided through grants made, or contracts entered into, under subtitle B, C, or D, or subtitle B or C of title III, may be provided (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 to be appropriate.

"Subtitle B—State Long-Term Care Ombudsman Program

"SEC. 211. ESTABLISHMENT.

"(a) IN GENERAL.—With funds allotted under section 121(a), the Assistant Secretary shall make grants to eligible States to carry out long-term care ombudsman programs.

~~"(b) OFFICE AND PROGRAM.—In order to be eligible to receive a grant under subsection (a), a State shall—~~

~~"(1) establish and operate an Office of the State Long-Term Care Ombudsman (referred to in this subtitle as the 'Office'); and~~

~~"(2) carry out through the Office a State long-term care ombudsman program.~~

~~"(c) OMBUDSMAN.—The Office shall be headed by an individual, to be known as the State Long-Term Care Ombudsman (referred to in this subtitle as the 'Ombudsman'), who shall be selected from among individuals with expertise and experience in the fields of long-term care and advocacy.~~

~~"SEC. 212. REQUIREMENTS FOR STATE LONG-TERM CARE OMBUDSMAN PROGRAM.~~

~~"(a) DUTIES.—The Ombudsman shall serve on a full-time basis, and shall, personally or through representatives of the Office—~~

~~"(1) identify, investigate, and resolve complaints that—~~

~~"(A) are made by, or on behalf of, older individuals who are residents of long-term care facilities (referred to individually in this section as a 'resident'); and~~

~~"(B) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of such residents (including the welfare and rights of such residents with respect to the appointment and activities of guardians and representative payees), by providers (or representatives of providers) of long-term care services, public agencies, or health and social service agencies;~~

~~"(2) provide services to assist such residents in protecting the health, safety, welfare, and rights of such residents;~~

~~"(3) inform such residents about means of obtaining services provided by providers or agencies described in paragraph (1)(B) or identification, investigation, and resolution services described in paragraph (1);~~

~~"(4) ensure that such residents have regular and timely access to the services provided through the State long-term care ombudsman program and that residents and complainants on behalf of residents (referred to individually in this section as a 'complainant') receive timely responses to their complaints from representatives of the State long-term~~

~~care ombudsman program (referred to individually in this section as a 'program representative');~~

~~"(5) represent the interests of such residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;~~

~~"(6) provide administrative and technical assistance to entities designated under subsection (c) to assist the entities in participating in the program;~~

~~"(7)(A) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, rules, and other government 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; and~~

~~"(B) recommend such changes in such laws, rules, policies, and actions as the Ombudsman determines to be appropriate;~~

~~"(8) provide for training for program representatives of the Office;~~

~~"(9) collect information, as specified by the Assistant Secretary, on the total number of such residents in the State and the number of complaints described in paragraph (1) received by the State, ana-~~

~~lyzed by type of facility (such as a nursing home or board and care facility); and~~

~~"(10) carry out such other activities as the State agency determines to be appropriate.~~

~~"(b) CONTRACTS AND ARRANGEMENTS.—~~

~~"(1) IN GENERAL.—Except as provided in paragraph (2), the State agency may establish and operate the Office, and carry out the program, directly or by contract or other arrangement with any public or nonprofit private organization, agency, or institution.~~

~~"(2) INELIGIBLE ENTITIES.—The State agency may not enter into a contract or other arrangement described in paragraph (1) with—~~

~~"(A) an agency or organization that is responsible for licensing or certifying long-term care services in the State; or~~

~~"(B) an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals.~~

~~"(c) DESIGNATION OF LOCAL OMBUDSMAN ENTITIES AND REPRESENTATIVES.—~~

~~"(1) DESIGNATION.—In carrying out the duties specified in subsection (a), the Ombudsman may~~

~~designate an entity as a local Ombudsman entity, and may designate an individual (including an employee or volunteer) to represent the entity.~~

~~"(2) ELIGIBILITY FOR DESIGNATION.—Entities eligible to be designated as local Ombudsman entities, and individuals eligible to be designated as representatives of such entities, shall—~~

~~"(A) have demonstrated capability to carry out the responsibilities of the Office;~~

~~"(B) be free of conflicts of interest;~~

~~"(C) in the case of the entities, be public or nonprofit private entities; and~~

~~"(D) meet such additional requirements as the Ombudsman may specify.~~

~~"(3) AUTHORITIES OF LOCAL OMBUDSMAN.—An individual so designated may, in accordance with the policies and procedures established by the Office and the State agency—~~

~~"(A) provide services to protect the health, safety, welfare, and rights of residents;~~

~~"(B) ensure that residents in the planning and service area of the entity have regular, timely access to representatives of the State long-term care ombudsman program and timely~~

~~responses to complaints and requests for assistance;~~

~~"(C) identify, investigate, and resolve complaints made by or on behalf of such residents that relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of such residents;~~

~~"(D) represent the interests of such residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of such residents;~~

~~"(E)(i) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, rules, and other government 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; and~~

~~(ii) recommend such changes in such laws, rules, policies, and actions as the individual determines to be appropriate;~~

~~"(F) facilitate the ability of the public to comment on such laws, rules, policies, and actions;~~

~~"(G) support the development of resident and family councils; and~~

~~"(H) carry out such other activities as the Ombudsman determines to be appropriate.~~

~~"(4) MONITORING POLICIES AND PROCEDURES.—~~

~~"(A) 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 specified in subsection (a) and their representatives.~~

~~"(B) CONSULTATION AND COMMENT.—If the entities are grant recipients, or the representatives are employees, of area agencies on aging, the State agency shall develop the policies and procedures after consultation with the area agencies on aging. The policies and procedures shall provide for participation and comment by such agencies and for resolution of concerns with respect to case activity.~~

1 ~~"(C) CONFIDENTIALITY AND CONFLICT OF~~
2 ~~INTEREST.—The State agency shall develop the~~
3 ~~policies and procedures in accordance with all~~
4 ~~provisions of subtitle A, this subtitle, and title~~
5 ~~III regarding confidentiality and conflict of in-~~
6 ~~terest.~~
7 ~~"(d) PROCEDURES FOR ACCESS.—The State shall en-~~
8 ~~sure, and shall establish procedures that ensure, that a~~
9 ~~program representative of the Office shall have—~~
10 ~~"(1) access to long-term care facilities and resi-~~
11 ~~dents;~~
12 ~~"(2)(A) appropriate access to review the medi-~~
13 ~~cal and social records of a resident, if the represent-~~
14 ~~ative has the permission of the resident (or the legal~~
15 ~~representative of the resident), or the resident is un-~~
16 ~~able to consent to the review and has no legal rep-~~
17 ~~resentative; or~~
18 ~~"(B) such access to such records as is nec-~~
19 ~~essary to investigate a complaint if a legal guardian~~
20 ~~of the resident refuses to give the permission, a pro-~~
21 ~~gram representative of the Office has reasonable~~
22 ~~cause to believe that the guardian is not acting in~~
23 ~~the best interests of the resident, and the program~~
24 ~~representative obtains the approval of the Ombuds-~~
25 ~~man;~~

~~"(3) 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~~

~~"(4) access to and, on request, copies of all licensing and certification records maintained by the State with respect to long-term care facilities.~~

~~"(e) DATA COLLECTION AND REPORTING.—The State agency shall—~~

~~"(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;~~

~~"(2) document the program operations and outreach activities of the State long-term care ombudsman program; and~~

~~"(3) submit to the Assistant Secretary and other State agencies, and make available to the public, annual reports containing the data and documentation specified in paragraphs (1) and (2).~~

~~"(f) DISCLOSURE.—~~

~~"(1) ESTABLISHMENT OF PROCEDURES.—The State agency shall establish procedures for the disclosure by the Ombudsman or local Ombudsman entities of files maintained by the State long-term care~~

~~ombudsman program, including records, policies, documents, and data described in subsections (d) and (e).~~

~~"(2) DISCLOSURE ONLY AT DISCRETION OF OMBUDSMAN.—The procedures described in paragraph (1) shall provide that, subject to paragraph (3), the files described in paragraph (1) may be disclosed only at the discretion of the Ombudsman.~~

~~"(3) NONDISCLOSURE OF IDENTITY.—The procedures described in paragraph (1) shall prohibit the disclosure of the identity of any complainant, or resident of a long-term care facility, with respect to whom the Office maintains such files unless—~~

~~"(A) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;~~

~~"(B) the complainant or resident gives consent orally and the consent is documented contemporaneously in writing made by a program representative of the Office in accordance with such requirements as the State agency shall establish; or~~

~~"(C) the disclosure is required by court order.~~

~~"(g) CONSULTATION.—In planning and operating the State long-term care ombudsman program, the State agency shall consider the views of area agencies on aging, older individuals, and providers of long-term care.~~

~~"(h) 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 (c), 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.

"(i) LEGAL COUNSEL.—The State agency shall ensure that—

~~"(1)(A) adequate legal counsel is available and able to provide advice and consultation needed to protect the health, safety, welfare, and rights of residents, and to assist the Ombudsman and the program representatives of the Office in the performance of the official duties of the Ombudsman and representatives; and~~

~~"(B) legal representation is provided to any program 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.~~

~~"(j) LIABILITY.—The State shall ensure that no program representative of the Office will be liable under State law for the good faith performance of official duties described in this Act.~~

~~"(k) NONINTERFERENCE.—The State shall—~~

~~"(1) ensure that willful interference with the representatives of the Office in the performance of official duties under the State long-term care ombudsman program 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.~~

~~"Subtitle C—Senior Community Service Employment Program~~

~~"SEC. 221. SHORT TITLE.~~

~~"This subtitle may be cited as the 'Older American Community Service Employment Act'.~~

~~"SEC. 222. DEFINITIONS.~~

~~"As used in this subtitle:~~

~~"(1) ADMINISTRATIVE COSTS.—The term 'administrative costs', used with respect to a project, means—~~

~~"(A) the costs of—~~

~~"(i) salaries, wages, and fringe benefits for project administrators;~~

~~"(ii) consumable office supplies used by project staff;~~

~~"(iii) development, preparation, presentation, management, and evaluation of the project;~~

~~"(iv) establishment and maintenance of accounting and management information systems;~~

~~"(v) establishment and maintenance of advisory councils;~~

~~"(vi) travel of the project administrators;~~

~~"(vii) rent, utilities, custodial services, and indirect costs attributable to the project;~~

~~"(viii) training of staff and technical assistance to subproject sponsor staff;~~

~~"(ix) equipment and material for use by project staff; or~~

~~"(x) audit services; and~~

~~"(B) the costs and expenses described in paragraph (2)(B).~~

~~"(2) OTHER PARTICIPANT COSTS.—~~

~~"(A) IN GENERAL.—The term 'other participant costs' includes—~~

~~"(i) the costs for participants of—~~

~~"(I) transportation;~~

~~"(II) training, including training described in section 223(d)(9); and~~

~~"(III) special job or personal counseling; and~~

~~"(ii) incidental expenses necessary for the participation of the participants, such as workshoes, safety eyeglasses, uniforms, tools, and similar items.~~

~~"(B) EXCLUSION.—The term shall not include—~~

~~"(i) the costs of performing assessments, including the assessment described in section 223(d)(11);~~

~~"(ii) administrative expenses relating to the training of participants;~~

~~"(iii) the costs of providing counseling to participants;~~

~~"(iv) the costs of providing supportive services to participants;~~

~~"(v) transportation costs incurred in training;~~

~~"(vi) the costs of evaluating participants for continued participation in employment in a project described in this subtitle; or~~

~~"(vii) the costs of developing host agency assignments and unsubsidized employment for participants.~~

~~"(3) PLACED IN UNSUBSIDIZED EMPLOYMENT.—~~

~~"(A) IN GENERAL.—The term 'placed in unsubsidized employment' means, with respect to an individual who was a participant in a project described in this subtitle, that—~~

~~"(i)(I) the individual was placed in a position with an employer not later than 90 days after the individual terminated participation in the project, and the position was not subsidized with Federal funds; and~~

~~"(II) the placement was attibutable to participation in the project;~~

~~"(ii) the employer intended, on the date of the placement, to employ the individual in the position for not less than 90 days;~~

~~"(iii) the individual was still employed in the position 30 days after the placement; and~~

~~"(iv) the individual was better off economically when employed in the position than the individual was when participating in the project.~~

~~"(B) BETTER OFF ECONOMICALLY.—As used in this paragraph, the term 'better off economically', used with respect to an individual, means an individual who was a participant in a project described in this subtitle and was placed in a position of employment if—~~

~~"(i) the individual received greater income for employment in the position than for participation in the project;~~

~~"(ii) the individual received greater benefits (as defined by the State in which the project is located) for employment in the position than for participation in the project; or~~

~~"(iii) the position met 2 or more of the following criteria:~~

~~"(I) The position provided to the individual 20 or more hours of employment per week and a wage that is not less than the minimum wage determined in accordance with section~~

~~6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).~~

~~"(II) The position was consistent with the individual development plan for the individual.~~

~~"(III) The position provided free housing to the individual.~~

~~"(IV) The position provided free food or meals to the individual.~~

~~"(V) The position provided health benefits to the individual.~~

~~"(VI) The position provided free transportation, or transportation at a reduced cost, to the individual.~~

~~"(VII) The position provided to the individual such economic benefits, other than the benefits described in subclauses (I) through (VI), as the State in which the project is located may determine to be appropriate.~~

~~"(4) SMALL STATE.—The term 'small State' means—~~

~~"(A) a State whose allotment under section 121 is increased as a result of the condition specified in section 121(b)(2)(C)(ii)(I); and~~

1 ~~"(B) a State referred to in section~~
2 ~~121(b)(2)(C)(ii)(II).~~

3 **~~"SEC. 223. SENIOR COMMUNITY SERVICE EMPLOYMENT~~**
4 **~~PROGRAM.~~**

5 ~~"(a) AUTHORITY FOR PROGRAM.—~~

6 ~~"(1) GRANTS.—With funds allotted under sec-~~
7 ~~tion 121(b), the Assistant Secretary shall make~~
8 ~~grants to eligible States and tribal organizations for~~
9 ~~the purpose of providing, to unemployed low-income~~
10 ~~older individuals who have poor employment pros-~~
11 ~~pects (as determined in accordance with standards~~
12 ~~issued by the States and organizations), part-time~~
13 ~~employment opportunities providing community serv-~~
14 ~~ices.~~

15 ~~"(2) USE OF FUNDS.—~~

16 ~~"(A) WAGES AND BENEFITS.—~~

17 ~~"(i) IN GENERAL.—Except as pro-~~
18 ~~vided in clause (ii) or subparagraph (C) or~~
19 ~~(D), not less than 90 percent of the funds~~
20 ~~made available through a grant made~~
21 ~~under paragraph (1) shall be used to pay~~
22 ~~wages and benefits for older individuals~~
23 ~~who are employed under projects carried~~
24 ~~out under this subtitle.~~

~~"(ii) SMALL STATES.—Except as provided in subparagraph (C) or (D), not less than 85 percent of the funds made available through a grant made under paragraph (1) to a small State shall be used to pay wages and benefits for older individuals who are employed under projects carried out under this subtitle.~~

~~"(B) ADMINISTRATIVE COSTS.—~~

~~"(i) IN GENERAL.—Except as provided in clause (ii), not more than 10 percent of the funds made available through a grant made under paragraph (1) may be used to pay for administrative costs.~~

~~"(ii) SMALL STATES.—Not more than 15 percent of the funds made available through a grant made under paragraph (1) to a small State may be used to pay for administrative costs.~~

~~"(C) OTHER PARTICIPANT COSTS; PROJECTS CARRIED OUT DIRECTLY.—~~

~~"(i) IN GENERAL.—A State or tribal organization that receives a grant under paragraph (1) for a project and that elects to carry out the project directly, or~~

~~through an agreement under subsection (b) with a political subdivision, may request that the Assistant Secretary provide for a fiscal year—~~

~~"(I) a general waiver of subparagraph (A); and~~

~~"(II) an additional waiver of subparagraph (A).~~

~~"(ii) REQUEST.—~~

~~"(I) IN GENERAL.—The State or tribal organization shall submit such a request at such time, in such form, and containing such information as the Assistant Secretary may require by rule.~~

~~"(II) INFORMATION FOR ADDITIONAL WAIVER.—A State or tribal organization that requests such an additional waiver for a fiscal year shall submit with the request information demonstrating that at least 30 percent of the participants in the projects carried out through a grant made under paragraph (1) for the previous~~

~~year to the State or organization were placed in unsubsidized employment.~~

~~"(iii) APPROVAL.—If the Assistant Secretary determines that the State or tribal organization has submitted a request that meets the requirements of clause (ii), the Assistant Secretary shall approve the request.~~

~~"(iv) GENERAL WAIVER.—A general waiver referred to in this subparagraph shall permit the State or tribal organization to use a portion, but not more than 20 percent, of the funds made available through the grant for the fiscal year for which the waiver is requested for administrative costs or other participant costs, subject to clause (i) or (ii), as appropriate, of subparagraph (B).~~

~~"(v) ADDITIONAL WAIVER.—~~

~~"(I) IN GENERAL.—An additional waiver referred to in this subparagraph shall permit the State or tribal organization to use a portion, but not more than 5 percent, of the funds made available through the grant for~~

~~the fiscal year for which the waiver is requested for other participant costs.~~

~~"(II) CALCULATION.—If a State or tribal organization receives a general waiver described in clause (iv) and an additional waiver described in this clause, the State or organization may use the portion described in clause (iv) and the portion described in this clause for the fiscal year for which the waivers are requested for administrative costs or other participant costs, subject to clause (i) or (ii), as appropriate, of subparagraph (B).~~

~~"(D) OTHER PARTICIPANT COSTS; PROJECTS CARRIED OUT UNDER AGREEMENTS.—~~

~~"(i) IN GENERAL.—An entity, other than a State, tribal organization, or political subdivision, that carries out a project under a grant made under paragraph (1) may request that the State or tribal organization that received the grant provide for a fiscal year—~~

~~"(I) a general waiver of subparagraph (A); and~~

~~"(II) an additional waiver of subparagraph (A).~~

~~"(ii) APPLICATION OF PROVISIONS.—The provisions of clauses (ii) through (v) of subparagraph (C) shall apply to such requests and such general and additional waivers, as appropriate, except that references in such provisions—~~

~~"(I) to a State or tribal organization shall be deemed to be references to the entity referred to in clause (i); and~~

~~"(II) to the Assistant Secretary shall be deemed to be references to the State or tribal organization that received the grant referred to in clause (i).~~

~~"(E) NON-FEDERAL SOURCES.—To the maximum extent practicable, an entity that carries out a project under this subtitle shall provide for the payment of the costs described in subparagraph (B), (C), or (D) from non-Federal sources.~~

~~"(b) ELIGIBILITY FOR GRANTS.—~~

~~"(1) APPLICATION AND AGREEMENTS.—To be eligible to receive a grant under subsection (a), a State or tribal organization shall submit to the Assistant Secretary an annual application at such time, in such form, and containing such information as the Assistant Secretary may require by rule, including an assurance that funds made available through such grant—~~

~~"(A) will be used by the State or tribal organization to carry out projects for the purpose specified in subsection (a)(1)—~~

~~"(i) directly (in accordance with the requirements of subsection (d)); or~~

~~"(ii) through agreements that satisfy the requirements of this subsection and subsection (d); and~~

~~"(B) will not be used to carry out a project involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship.~~

~~"(2) PARTICIPANTS IN AGREEMENT.—Such agreements shall be entered into by the State or tribal organization with—~~

1 ~~"(A) public or nonprofit private agencies~~
2 ~~or organizations;~~
3 ~~"(B) political subdivisions of States having~~
4 ~~elected or duly appointed governing officials (or~~
5 ~~combinations of such political subdivisions);~~
6 ~~"(C) tribal organizations; and~~
7 ~~"(D) area agencies on aging.~~
8 ~~"(3) AGREEMENT WITH BUSINESSES.—At the~~
9 ~~election of a State or tribal organization that re-~~
10 ~~ceives a grant made under subsection (a), not more~~
11 ~~than 5 percent of the funds made available through~~
12 ~~the grant may be used to enter into agreements with~~
13 ~~businesses (giving special consideration to businesses~~
14 ~~in growth industries) to pay for not more than 50~~
15 ~~percent of the cost of providing employment (includ-~~
16 ~~ing arranging for the provision of employment) to~~
17 ~~older individuals described in subsection (a).~~
18 ~~"(c) COMPETITIVE BASIS.—In selecting an entity~~
19 ~~with whom a State or tribal organization will enter into~~
20 ~~an agreement under subsection (b), the State or organiza-~~
21 ~~tion—~~
22 ~~"(1) shall make the selection on a competitive~~
23 ~~basis; and~~
24 ~~"(2) shall take into consideration, where appro-~~
25 ~~priate, the demonstrated ability of the entity to pro-~~

~~vide employment (including arranging for the provision of employment) to older individuals described in subsection (a).~~

~~"(d) REQUIREMENTS.—~~

~~"(1) IN GENERAL.—Each agreement entered into under subsection (b) for a project shall provide that no payment shall be made by the State or tribal organization toward the cost of such project unless the State or tribal organization determines that such project, or the entity that carries out such project, as appropriate, will satisfy each of the conditions described in paragraphs (2) through (13). Each State or tribal organization that carries out a project directly under subsection (b) shall ensure that such project or the State or organization, as appropriate, will satisfy each of the conditions described in paragraphs (2) through (13).~~

~~"(2) FEDERAL SHARE REQUIREMENT.—~~

~~"(A) IN GENERAL.—The entity that carries out the project shall use funds received for such project that are made available through a grant made under subsection (a) to pay for the Federal share of the cost of the project.~~

~~"(B) FEDERAL SHARE.—The Federal share of the cost of the project shall be not more than 85 percent.~~

~~"(C) NON-FEDERAL SHARE.—The non-Federal share of such cost shall be contributed 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.~~

~~"(3) PERSONNEL.—The project shall provide employment only for older individuals described in subsection (a), except for necessary technical, administrative, and supervisory personnel. Such personnel shall, to the fullest extent possible, be recruited from among older individuals described in subsection (a).~~

~~"(4) COMMUNITIES.—~~

~~"(A) IN GENERAL.—If such project is carried out by or under an agreement with a State, the project shall provide employment for such individuals in the community in which such individuals reside, or in nearby communities.~~

~~"(B) RESERVATIONS.—If such project is carried out by or under an agreement with a~~

~~tribal organization, the project shall provide employment for such individuals who are Indians residing on an Indian reservation.~~

~~"(5) SERVICES.—The project (except a project carried out under an agreement described in subsection (b)(3)) shall employ older individuals described in subsection (a) in positions in which the individuals provide services—~~

~~"(A) related to publicly owned and operated facilities or public projects; or~~

~~"(B) related to projects sponsored by organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 that are exempt from taxation under section 501(a) of such Code.~~

~~"(6) GENERAL WELFARE.—The project shall contribute to the general welfare of the community in which the project is carried out.~~

~~"(7) EMPLOYMENT IMPACTS.—The project shall—~~

~~"(A) result in an increase in employment opportunities over the opportunities that would otherwise be available;~~

~~"(B) not result in the displacement (including partial displacement, such as a reduc-~~

~~tion in the hours of nonovertime work or wages or employment benefits) of currently employed workers (as of the date of the beginning of the project); and~~

~~"(C) not impair existing contracts (as of the date of the beginning of the project) or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed.~~

~~"(8) RECRUITMENT AND SELECTION.—In carrying out the project, the entity shall utilize methods of recruitment and selection (including listing job vacancies with an employment agency operated by any State or political subdivision of a State) that will ensure that the maximum number of older individuals described in subsection (a) will have an opportunity to participate in the project.~~

~~"(9) TRAINING.—The project shall include such training as may be necessary to make the most effective use of the skills and talents of such individuals who are participating in the project and assist in their transition into employment for which no financial assistance is provided under this subtitle.~~

~~"(10) ADVICE.—The entity shall establish or administer the project after receiving the advice of—~~

~~"(A) individuals competent in the field of service in which the project will provide employment; and~~

~~"(B) individuals who are knowledgeable with regard to the needs of older individuals.~~

~~"(11) ASSESSMENT.—The entity shall prepare an assessment of—~~

~~"(A) the skills and talents of each participating older individual;~~

~~"(B) the need of the older individual for supportive services; and~~

~~"(C) the ability of the older individual to perform community service employment;~~

~~except to the extent that the project has an assessment of such skills and talents, such need, or such ability, of the individual that was prepared recently pursuant to another Federal or State employment or job training program.~~

~~"(12) NOTICE AND EXPLANATION.—The entity that carries out such project shall post in the project workplace a notice, and shall make available to each individual 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.

"(13) PRIORITY IN EMPLOYMENT OPPORTUNITIES.—In providing employment opportunities (including arranging for the provision of employment opportunities) under the project, such entity shall give priority to low-income older individuals described in subsection (a) who are 60 years of age or older.

"(c) PREREQUISITE DETERMINATIONS AND COORDINATION.—

"(1) DETERMINATIONS.—To effectively carry out subsection (b), a State or tribal organization that receives a grant under subsection (a) for a fiscal year shall, after consultation with the appropriate area agencies on aging and with other organizations that received funds under this subtitle in the preceding fiscal year—

"(A) make a determination identifying the localities in the State, or on an Indian reservation in the case of a tribal organization, in which projects described in subsection (b) are most needed;

"(B) in making such determination, consider the local employment situations and the

~~types of skills possessed by available local older individuals described in subsection (a); and~~

~~"(C) make a determination identifying potential projects for, and the number and percentage of such individuals in the local population of, each such locality.~~

~~"(2) COORDINATION.—To increase job opportunities available to older individuals, the State or tribal organization shall coordinate the projects assisted under this subtitle with—~~

~~"(A) other programs, projects, and activities carried out under this Act; and~~

~~"(B) other Federal or State employment or job training programs.~~

~~"(3) PARTICIPANTS.—To the maximum extent practicable, the State or tribal organization shall ensure that entities that carry out projects under this subtitle provide employment (including arranging for the provision of employment) under this subtitle to older individuals who on the day before the effective date of section 3 of the Older Americans Amendments of 1996 were participants under an agreement entered into under section 502(b) (as in effect on the day before such date).~~

~~"(f) EQUITABLE USE OF FUNDS.—To the maximum extent practicable, the State or tribal organization shall use funds available for this subtitle to enter into agreements under subsection (b) or carry out this subtitle in an equitable manner, taking into consideration the number of eligible older individuals in the various geographical areas served under the agreements or by the State or organization and the relative distribution of such individuals among urban and rural areas.~~

~~"(g) PRIOR SUBMISSION OF PROJECT DESCRIPTION.—If an entity carries out a project under this subtitle in a planning and service area, and the entity is not the area agency on aging for the planning and service area, the entity shall carry out the project in consultation with the area agency on aging and shall submit to the area agency on aging, not less than 30 days before undertaking the project, a description (including the location) of such project.~~

~~"(h) ALTERNATIVE WORK MODES; TECHNICAL ASSISTANCE.—To assist entities carrying out, and participants in, projects assisted under this subtitle, the State or tribal organization may develop alternatives for innovative work modes and provide technical assistance in creating job opportunities through work sharing and other experimental methods to groups representing business and~~

~~industry and workers, as well as to individual employers, where appropriate.~~

~~"(i) REPORT.—If a State or tribal organization elects under subsection (b) to enter into agreements described in paragraph (3) of such subsection for a fiscal year, the State or tribal organization shall submit to the Assistant Secretary a report describing the projects carried out under such agreements.~~

~~"(j) DATA COLLECTION AND ANALYSIS.—A State or tribal organization that receives a grant under subsection (a) shall use a portion of the remaining funds described in subsection (a)(2)(B) to collect data and carry out analyses related to the need for community service employment within the population served under the grant and disseminate information obtained through the data collection and analyses.~~

~~"(k) RULES.—The Secretary shall issue, and amend from time to time, rules that require States and tribal organizations that receive grants under subsection (a) to establish, to the maximum extent practicable, for projects carried out under this subtitle the goal of annually placing not less than 20 percent of project participants in employment for which no financial assistance is provided under this subtitle.~~

~~"SEC. 224. PARTICIPANTS NOT FEDERAL EMPLOYEES.~~

~~"(a) PROJECT PARTICIPANTS.—Older individuals described in section 223(a) who participate in a project assisted under this subtitle shall not be considered to be Federal employees as a result of such participation and shall not be subject to the provisions of part III of title 5, United States Code.~~

~~"(b) WORKMEN'S COMPENSATION.—No State or tribal organization shall enter into an agreement under section 223(b) with, or carry out such a project through, an entity 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 entity shall undertake to provide either through insurance by a recognized carrier, or by self-insurance, as authorized by State law, that the individuals employed under the contract shall enjoy workmen's compensation coverage equal to such coverage provided by law for covered employment.~~

~~"SEC. 225. EMPLOYMENT ASSISTANCE AND FEDERAL HOUSING AND FOOD STAMP PROGRAMS.~~

~~"Funds received by eligible individuals from projects carried out under this subtitle 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 (7 U.S.C. 2011 et seq.).~~

~~"Subtitle D—Disease Prevention and Health Promotion~~

~~"SEC. 231. ESTABLISHMENT OF GRANT PROGRAM.~~

~~"(a) AUTHORITY.—The Assistant Secretary shall carry out a program for making grants to States to enable the States, to assist eligible area agencies on aging to provide disease prevention and health promotion services and information at multipurpose senior centers, at congregate meal sites, through home-delivered meal programs, or at other appropriate sites. In carrying out such program, the Assistant Secretary shall consult with the Director of the Centers for Disease Control and Prevention and the Director of the National Institute on Aging.~~

~~"(b) SERVICES.—Each State, in consultation with the Assistant Secretary, shall determine the services to be provided as disease prevention and health promotion services in the State under this subtitle. The State may not include services for which payment may be made under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).~~

~~"(c) USE OF SERVICES.—Each State, to the extent possible, shall assure that area agencies on aging use serv-~~

ices provided by other community organizations and agencies in carrying out the provisions of this subtitle.

"SEC. 232. DISTRIBUTION TO AREA AGENCIES ON AGING.

"The State agency shall give priority, in assisting area agencies on aging under this subtitle, to agencies serving areas of the State—

"(1) that are medically underserved; and

"(2) in which there are large numbers of older individuals with greatest economic need who are in need of such services.

"TITLE III—LOCAL PROGRAMS ON AGING

"Subtitle A—General Provisions

"SEC. 301. ELIGIBILITY OF LOCAL ORGANIZATIONS.

"(a) DESIGNATION OF AREA AGENCIES ON AGING.—An area agency on aging designated under section 201(a)—

"(1) shall be—

"(A) an established office of aging;

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

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

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

~~"(E) in the case of a State designated under section 201(a)(1)(E) as a single planning and service area, the State agency; and~~

~~"(2) shall provide an assurance, determined to be adequate by the State agency, that the area agency on aging will have the ability to develop an area plan in accordance with section 302 and to carry out, directly or through contractual or other arrangements, a program in accordance with the plan within the planning and service area.~~

~~"(b) PREFERENCE.—In designating an area agency on aging within the planning and service area, including 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.~~

~~"SEC. 302. AREA PLANS.~~

~~"(a) PLAN.—To be eligible for designation as an area agency on aging in a State, an entity shall prepare, develop, and submit to the State agency an area plan for a planning and service area for a 2-, 3-, or 4-year period determined by the State agency, with such annual revisions as may be necessary. Each such plan shall be based on a uniform format for area plans within the State. Each such plan shall comply with all of the following requirements:~~

~~"(1) SCOPE OF PLAN.—The plan shall provide, through a comprehensive and coordinated system, for—~~

~~"(A) supportive services (including, where appropriate, services to support the establishment or maintenance of multipurpose senior centers), nutrition services (including home-de-~~

~~livered nutrition services and congregate nutrition services), within the planning and service area covered by the plan;~~

~~"(B) determining the extent of need for supportive services (including services to support multipurpose senior centers), and nutrition services (taking into consideration the comparative need for home-delivered nutrition services, congregate nutrition services, and adult day care nutrition services), in such area (taking into consideration, among other things, the number of low-income older individuals residing in such area, the number of older individuals with greatest economic need residing in such area, the number of older individuals with greatest social need residing in such area, the number of older individuals who are Indians residing in such area, and the efforts of voluntary organizations in the community);~~

~~"(C) evaluating the effectiveness of the use of resources in meeting such need; and~~

~~"(D) entering into agreements with providers of supportive services (including services to support multipurpose senior centers) and nutri-~~

~~tion services in such area, for the provision of such services or centers to meet such need.~~

~~"(2) PROMOTION OF INDEPENDENT LIVING.—The plan shall promote independent living through the use of home- and community-based care for older individuals, address the nutrition and health promotion needs of older individuals, provide advocacy for and protect the rights of vulnerable older individuals in both community-based and institutional settings, specify efforts to be undertaken to ensure the quality of supportive services and nutrition services provided in such settings, enhance access to services provided under the plan, and encourage community participation in carrying out the plan.~~

~~"(3) INFORMATION AND ASSISTANCE SERVICES.—The plan shall provide for the establishment and maintenance of information and assistance services to ensure that older individuals within the planning and service area covered by the plan will have reasonably convenient access to services provided under the plan, with particular emphasis on linking services available to—~~

~~"(A) isolated older individuals; and~~

~~"(B) older individuals with Alzheimer's disease or related disorders and with neurological or organic brain dysfunction (and the caretakers of such individuals).~~

~~"(4) SPECIFIC OBJECTIVES; OUTREACH.—~~

~~"(A) OBJECTIVES.—The plan shall contain an assurance that the area agency on aging will set specific objectives for providing services to older individuals with greatest economic need, older individuals with greatest social need, and older individuals residing in rural areas.~~

~~"(B) OUTREACH.—The plan shall contain assurances that the area agency on aging will use outreach efforts that will—~~

~~"(i) identify individuals eligible for assistance under subtitles B and C, with special emphasis on—~~

~~"(I) older individuals residing in rural areas;~~

~~"(II) older individuals with greatest economic need;~~

~~"(III) older individuals with greatest social need, with particular attention to low-income minority individuals;~~

~~"(IV) older individuals with severe disabilities;~~

~~"(V) older individuals with limited-English speaking ability;~~

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

~~"(VII) low-income minority older individuals; and~~

~~"(ii) inform the older individuals referred to in subclauses (I) through (VII) of clause (i), and the caretakers of such individuals, of the availability of such assistance.~~

~~"(5) EVALUATIONS; TECHNICAL ASSISTANCE AND INFORMATION; ADVOCACY; ADVISORY COUNCIL.—The plan shall provide that the area agency on aging will—~~

~~"(A) furnish appropriate technical assistance, and information in a timely manner, to providers of supportive services (including services to support multipurpose senior centers) and~~

~~nutrition services in the planning and service area covered by the area plan;~~

~~"(B) 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 the plan;~~

~~"(C) serve as the advocate and focal point for older individuals within communities in the planning and service area by (in cooperation with agencies, organizations, institutions, and individuals participating in activities under the plan) monitoring, evaluating, and commenting on all policies, programs, hearings, levies, and community actions within the area that will affect older individuals;~~

~~"(D) establish an advisory council consisting of older individuals who are participants or who are eligible to participate in programs carried out under this subtitle, 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 admin-~~

~~istration of the plan, and operations conducted under the plan;~~

~~"(E) facilitate the coordination of community-based, long-term care services for older individuals designed to—~~

~~"(i) retain individuals in their homes, thereby deferring unnecessary, costly institutionalization; and~~

~~"(ii) include the development of case management services as a component of the long-term care services;~~

~~"(F) facilitate the involvement of long-term care providers in the coordination of community-based long-term care services for older individuals and work to ensure community awareness of, and involvement in, addressing the needs of residents of long-term care facilities;~~

~~"(G) coordinate services and activities carried out under the area plan with—~~

~~"(i) activities of community-based organizations, established for the benefit of older individuals with Alzheimer's disease or related disorders and with neurological~~

~~or organic brain dysfunction (and the families of such individuals); and~~

~~"(ii) the mental health services provided by community health centers and by other public and nonprofit private agencies, organizations, and institutions; and~~

~~"(H) establish a grievance procedure for older individuals who are dissatisfied with services provided, or who are denied services, under subtitle B or C.~~

~~"(6) VOLUNTEERS.—The plan shall encourage, and enlist the services of, local volunteer groups to provide assistance and services appropriate to the unique needs of older individuals within the planning and service area.~~

~~"(7) PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION.—Whenever the State desires to provide for programs for the prevention of elder abuse, neglect, and exploitation for a fiscal year, the plan shall—~~

~~"(A) contain an assurance that the area agency on aging will conduct such a program in a manner consistent with the provisions of this Act;~~

~~"(B) contain an assurance that the area agency on aging will provide public education and outreach to identify and prevent elder abuse, neglect, and exploitation;~~

~~"(C) contain an assurance that the area agency on aging—~~

~~"(i) will establish procedures for receipt of reports of elder abuse, neglect, and exploitation; and~~

~~"(ii) on receipt of a report of a known or suspected instance of abuse, neglect, or exploitation of an older individual, will promptly refer the reported matter to the proper authorities for investigation and action consistent with State law; and~~

~~"(D) specify other activities that the area agency determines to be beneficial in the prevention of elder abuse, neglect, and exploitation and intends to carry out under such program.~~

~~"(8) DESCRIPTION OF ACTIVITIES.—The plan shall—~~

~~"(A) describe all activities of the area agency on aging for which financial assistance is provided to carry out subtitles B and C; and~~

~~"(B) contain an assurance that such activities conform with—~~

~~"(i) the responsibilities of the area agency on aging, as set forth in this subsection; and~~

~~"(ii) the laws, rules, and policies of the State in which the area agency on aging is carrying out an area plan.~~

~~"(9) DISCLOSURE OF SOURCES AND EXPENDITURES OF FUNDS.—The plan shall contain an assurance that the area agency on aging will, on the request of the State and 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 assistance to older individuals.~~

~~"(10) PROHIBITION ON MISUSE OF FUNDS.—The plan shall provide assurances that funds received from allotments made under section 121(c) and assistance made available under section 123 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 arrangement that is not carried out to implement subtitle B or C.~~

~~"(11) CASE MANAGEMENT SERVICES.—The plan shall 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);~~

~~"(C) include the provision, to consumers, of a list of available service providers for appropriate care in the planning and service area served by the agency;~~

~~"(D) be provided in a manner that gives a consumer the right to choose a provider of preference; and~~

~~"(E) be provided by—~~

~~"(i) a public agency; or~~

~~"(ii) a nonprofit private agency that—~~

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

~~services, outreach, and information and referral) under this title;~~

~~"(II) is located in a rural area and obtains a waiver of the requirement described in subclause (I); or~~

~~"(III) is a community-based organization described in section 223(d)(5)(B), and is located in a planning and service area for which the area agency on aging contracted with a nonprofit private agency to provide case management services in fiscal year 1992.~~

~~"(12) COST SHARING.—The plan shall contain an assurance that any requirements for cost sharing by recipients of services provided under the plan will be consistent with the provisions of the State plan that satisfy the requirement specified in section 202(a)(16).~~

~~"(b) PRESERVATION OF ATTORNEY-CLIENT PRIVILEGE.—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.~~

~~"(c) STATE AUTHORITY TO WITHHOLD ASSISTANCE.—~~

~~"(1) FAILURE TO COMPLY.—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), rules, or policies, the State may withhold from the area agency on aging a portion of the assistance available under the allotment made under section 121(c) and the assistance available under sections 123 and 231.~~

~~"(2) DUE PROCESS.—~~

~~"(A) IN GENERAL.—The head of the State agency shall not withhold assistance under paragraph (1) without first affording the area agency on aging due process in accordance with procedures established by the State agency.~~

~~"(B) PROCEDURES.—At a minimum, such procedures shall include procedures for—~~

~~"(i) providing notice of an action to withhold assistance;~~

~~"(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 such action.~~

~~"(3) DIRECT ADMINISTRATION OF PROGRAMS.—~~

~~"(A) IN GENERAL.—If the State agency withholds the assistance under paragraphs (1) and (2), the State agency may use the assistance withheld to directly administer programs under subtitles B and C in the planning and service area served by the area agency on aging for a period of not to exceed 180 days, except as provided in subparagraph (B).~~

~~"(B) EXTENSION OF PERIOD.—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 until the area agency on aging takes satisfactory corrective action, but not for longer than 1 year. If, at the end of the 1-year extension, the area agency on aging has not taken satisfactory corrective action, the State shall designate a new area agency on aging to serve the planning and service area.~~

~~"Subtitle B—Supportive Services and Senior Centers~~

~~"SEC. 311. PROGRAM AUTHORIZED.~~

~~''The Assistant Secretary shall carry out a program for making grants to States, under State plans approved under section 202, to enable the States to assist eligible area agencies on aging in carrying out any of the following supportive services that are necessary for the general welfare of older individuals:~~

~~''(1) Health (including mental health), education and training, welfare, informational, recreational, homemaker, counseling, or referral services.~~

~~''(2) Services (including information and assistance services) designed to encourage and assist older individuals to use the facilities and services available to the individuals, including language translation services to assist older individuals with limited-English speaking ability to obtain services under this subtitle.~~

~~''(3) 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 residences in conformity with minimum housing standards;~~

~~"(B) to adapt residences to meet the needs of older individuals with disabilities;~~

~~"(C) to prevent unlawful entry into residences of older individuals, through the installation of security devices and through structural modifications or alterations of such residences; or~~

~~"(D) to receive applications from older individuals for housing under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q).~~

~~"(4) Services designed to assist older individuals to avoid institutionalization, and services designed to assist individuals in long-term care institutions who are able to return to their communities, including—~~

~~"(A) client assessment services and development and coordination of community-based services;~~

~~"(B) in-home services for frail older individuals, including services for older individuals with Alzheimer's disease and related disorders and with neurological or organic brain dysfunction (and for families of such individuals);~~

~~"(C) supportive activities to meet the special needs of caregivers, including caregivers who provide in-home services to frail older individuals; and~~

~~"(D) in-home and other community-based services to assist older individuals to live independently in a home environment, including home health, homemaker, shopping, escort, reader, and letter-writing services.~~

~~"(5) 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.~~

~~"(6) Services designed to enable older individuals to attain and maintain physical and mental well-being through programs of regular physical activity.~~

~~"(7) Activities designed to promote disease prevention and health promotion.~~

~~"(8) Services designed to provide, for older individuals, preretirement counseling and assistance in planning for and assessing future post-retirement needs with regard to insurance benefits, public benefits, lifestyle changes, relocation, legal matters, leisure time, and other appropriate matters.~~

~~"(9) Services that 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.~~

~~"(10) Services to encourage the employment of older individuals (which shall be coordinated with the assistance provided through the community service employment program carried out under subtitle C of title II), including job and second career counseling and, in an appropriate case, job development, referral, and placement.~~

~~"(11) Services for the prevention of abuse, neglect, and exploitation of older individuals.~~

~~"(12) Crime prevention services, and victim assistance programs, for older individuals.~~

~~"(13) Health and nutrition education services, including information concerning prevention, diagnosis, treatment, and rehabilitation relating to age-related diseases and chronic disabling conditions.~~

~~"(14) Services designed to enable mentally impaired older individuals to attain and maintain emotional well-being and independent living through a comprehensive and coordinated system of services described in the other paragraphs of this section.~~

~~"(15) 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.~~

~~"(16) 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.~~

~~"(17) Services to assist in the operation of multipurpose senior centers.~~

"(18) Services that provide reasonable opportunities for older individuals to participate on a voluntary basis in multigenerational activities.

"(19) Transportation services to facilitate access to the services authorized to be provided under any other paragraph of this section.

"(20) Services provided through a State long-term care ombudsman program in accordance with subtitle B of title II.

"(21) Any other services, if provision of the services is consistent with the core objectives described in section 101(2).

"Subtitle C—Nutrition Services

"SEC. 321. PROGRAM AUTHORIZED.

"(a) NUTRITION SERVICES.—The Assistant Secretary shall carry out a program for making grants to States, under State plans approved under section 202, to enable the States to assist eligible area agencies on aging in establishing and operating nutrition projects that provide, 5 or more days a week (or less frequently in a rural area where such frequency is not feasible or in a State for which a lesser frequency is approved by the State agency)—

"(1) meals to eligible individuals in congregate meals settings; and

1 ~~"(2) meals to eligible individuals in their homes.~~

2 ~~"(b) REQUIREMENTS.—Entities providing meals~~
3 ~~under a grant or contract made under this subtitle shall~~
4 ~~provide eligible older individuals with at least 1 meal per~~
5 ~~day and any additional meals per day that the recipient~~
6 ~~of the grant or contract may elect to provide.~~

7 **~~"SEC. 322. ADDITIONAL REQUIREMENTS.~~**

8 ~~"A State that establishes and operates a nutrition~~
9 ~~project under this subtitle shall—~~

10 ~~"(1) solicit the advice of a dietitian or an indi-~~
11 ~~vidual with comparable expertise in the planning of~~
12 ~~nutritional services; and~~

13 ~~"(2) ensure that—~~

14 ~~"(A) the project provides meals that—~~

15 ~~"(i) comply with the Dietary Guide-~~
16 ~~lines for Americans, published by the Sec-~~
17 ~~retary and the Secretary of Agriculture;~~

18 ~~"(ii) provide to each participating~~
19 ~~older individual—~~

20 ~~"(I) a minimum of 33⅓ percent~~
21 ~~of the daily recommended dietary al-~~
22 ~~lowances established by the Food and~~
23 ~~Nutrition Board of the Institute of~~
24 ~~Medicine of the National Academy of~~

~~Sciences, if the project provides 1 meal per day;~~

~~"(II) a minimum of 66⅔ percent of the allowances, if the project provides 2 meals per day; and~~

~~"(III) 100 percent of the allowances, if the project provides 3 meals per day; and~~

~~"(iii) to the maximum extent practicable, are adjusted to meet any special dietary needs of program participants;~~

~~"(B) the agency carrying out the project provides flexibility to local meal providers in designing meals that are appealing to program participants;~~

~~"(C) the agency carrying out the project encourages meal providers to enter into contracts that limit the amount of time that meals may spend in transit before the meals are consumed;~~

~~"(D) the agency carrying out the project, where feasible, encourages arrangements with schools and other facilities serving meals to children in order to promote intergenerational meal programs;~~

~~"(E) the agency carrying out the project provides that meals, other than home-delivered meals, are provided in settings in as close proximity to the majority of the residences of eligible older individuals served by the project as is feasible;~~

~~"(F) the agency carrying out the project ensures that meal providers carry out such project with the advice of dietitians (or individuals with comparable expertise in the planning of nutritional services), meal participants, and other individuals who are knowledgeable with regard to the needs of older individuals;~~

~~"(G) the agency carrying out the project 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 to the meal, older individuals eligible for a meal under this subtitle;~~

"(H) the agency carrying out the project 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 that are occupied primarily by older individuals and at which congregate nutrition services are provided;

"(I) the project, where appropriate, provides for nutrition education, counseling, and screening; and

"(J) the agency carrying out the project ensures that meal providers carry out such project in accordance with applicable State and local laws relating to food service.

"TITLE IV—NATIVE AMERICAN PROGRAMS ON AGING

"SEC. 401. GRANTS FOR SERVICES TO NATIVE AMERICANS.

"(a) AUTHORITY TO MAKE GRANTS.—The Assistant Secretary may make grants to organizations that meet the requirements of subsection (b) and section 402 (referred to individually in this title as an 'eligible organization') to pay for 100 percent of the costs of projects for delivery of supportive services, and nutrition services, for older individuals who are Native Americans.

"(b) ELIGIBILITY OF ORGANIZATIONS.—An organization shall be eligible to receive a grant under this title only if the organization is—

"(1) a tribal organization that—

"(A) represents at least 50 older individuals; and

"(B) demonstrates the ability to deliver supportive services and nutrition services;

"(2) an Alaska Native organization that—

"(A) represents at least 50 older individuals; and

"(B) demonstrates the ability to deliver supportive services and nutrition services; or

"(3) a public or nonprofit private organization that—

"(A) is primarily controlled by and comprised of Native Hawaiians;

"(B) will serve at least 50 older individuals who are Native Hawaiians; and

"(C) demonstrates the ability to deliver supportive services and nutrition services.

"SEC. 402. APPLICATIONS FOR GRANTS.

"(a) REQUIREMENT.—To be eligible to receive a grant under this title, an organization shall submit an application to the Assistant Secretary at such time, in such

~~form, and containing such information as the Assistant Secretary may establish by rule. Each such application shall—~~

~~"(1) provide an assurance that such organization will evaluate the need for supportive services and nutrition services among older individuals who are—~~

~~"(A) Indians represented by the organization submitting the application if such organization is a tribal organization described in section 401(b)(1);~~

~~"(B) Alaska Natives represented by the organization submitting the application if such organization is an Alaska Native organization described in section 401(b)(2); or~~

~~"(C) Native Hawaiians to be served by the organization submitting the application if such organization is an organization described in section 401(b)(3);~~

~~"(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the project to be carried out with such grant;~~

~~"(3) provide an assurance that such organization will make such reports at such time, 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;~~

~~"(4) provide for periodic evaluation of the project to be carried out with such grant;~~

~~"(5) contain information describing objectives toward which such project will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which such organization proposes to overcome such obstacles;~~

~~"(6) provide for establishing and maintaining information and assistance services to ensure that older individuals who are served by such project will have reasonably convenient access to the services and activities provided by such project;~~

~~"(7) provide an assurance that the organization will, whenever feasible, give preference to older individuals who are Native Americans in hiring individuals for full- or part-time staff positions;~~

~~"(8) provide an assurance that, either directly or by way of grant or contract with appropriate entities, the organization will—~~

~~"(A) ensure that nutrition services will be delivered to older individuals as described in paragraph (1); and~~

~~"(B) substantially comply with subtitle C of title III, except that in any case in which the need of such individuals for nutrition services is already met from other sources, such organization may expend for supportive services the funds otherwise required to be expended under this paragraph;~~

~~"(9) provide an assurance that in providing any legal services or ombudsman services to older individuals as described in paragraph (1), the organization will substantially comply with the provisions of subtitles A and B of title II, and subtitles A and B of title III, relating to furnishing similar services;~~

~~"(10) provide an assurance that the organization will adopt such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under this title to such organization, including any funds paid by such organization to a recipient of a grant or contract under this title;~~

~~"(11) provide an assurance that such organization will coordinate services provided under this title~~

~~with services provided under subtitles B and C of title II, and subtitles B and C of title III, in the same geographical area; and~~

~~"(12) if the organization elects to solicit voluntary contributions from older individuals, provide an assurance that such organization will ensure that—~~

~~"(A) the amount of the contributions will be based on the ability of the older individuals to make such contributions; and~~

~~"(B) the contributions will be used to increase, or to expand access to, services provided under this title.~~

~~"(b) POPULATION STATISTICS.—For the purpose of obtaining information for any application submitted under subsection (a) for a grant, an organization may develop population statistics for the population to be served under the grant, with a certification from the Bureau of Indian Affairs, in order to establish eligibility to receive a grant under this title.~~

~~"(c) APPROVAL OF APPLICATION.—The Assistant Secretary shall approve any application that complies with subsection (a).~~

~~"(d) APPLICATION NOT APPROVED.—Whenever the Assistant Secretary determines that the Assistant Sec-~~

retary will not approve an application submitted under subsection (a) by an organization the Assistant Secretary shall—

"(1) provide objections relating to the application in writing to the organization within 60 days after such determination;

"(2) provide, to the extent practicable, technical assistance to the organization to overcome such objections; and

"(3) provide the organization with a hearing, under such rules as the Assistant Secretary may issue.

"(c) PERIOD FUNDED.—Whenever the Assistant Secretary approves an application of an organization under subsection (c), the Assistant Secretary shall make a grant to the organization under this title for a period of not less than 12 months.

"SEC. 403. DISTRIBUTION OF FUNDS AMONG ELIGIBLE ORGANIZATIONS.

"(a) MAINTENANCE of 1991 AMOUNTS.—Subject to the availability of appropriations to carry out this title, the amount of a grant (if any) made under this title to an eligible organization for fiscal year 1997 or a subsequent fiscal year shall be not less than the amount of the grant made to the eligible organization for fiscal year

~~1991 under part A or B of title VI (as in effect on September 30, 1990).~~

~~"(b) USE OF ADDITIONAL AMOUNTS APPROPRIATED.—If the amount appropriated to carry out this title for fiscal year 1997 or a subsequent fiscal year exceeds the amount appropriated to carry out parts A and B of such title VI for fiscal year 1991, the amount of the grant (if any) made under this title to an eligible organization for such subsequent fiscal year shall be—~~

~~"(1) increased by such amount as the Assistant Secretary considers to be appropriate, in addition to any amount required by subsection (a), so that the grant equals or more closely approaches the amount of the grant made to the eligible organization for fiscal year 1980 under part A of title VI (as in effect on September 30, 1979) or for fiscal year 1995 under part B of title VI (as in effect on September 30, 1994); or~~

~~"(2) an amount the Assistant Secretary considers to be sufficient, if the eligible organization did not receive a grant under part A or B of title VI for either fiscal year 1980 or fiscal year 1991 (as in effect on September 30, 1979 or September 30, 1990, as appropriate).~~

~~"SEC. 404. SURPLUS EDUCATIONAL FACILITIES.~~

~~"(a) REQUIREMENT.—~~

~~"(1) AVAILABILITY.—Notwithstanding any other provision of law, the Secretary of the Interior shall—~~

~~"(A) make a surplus Indian educational facility or a surplus Alaska Native educational facility available for use as a multipurpose senior center—~~

~~"(i) to an organization described in section 401(b)(1) or an organization described in section 401(b)(2), respectively; or~~

~~"(ii) with the approval of the Indian tribe or Alaska Native organization involved, to a public or nonprofit private organization; and~~

~~"(B) make any other surplus educational facility that is under the control of the Secretary of the Interior and is located in Hawaii available for use as a multipurpose senior center, to an organization described in section 401(b)(3).~~

~~"(2) ALTERATION TO PROVIDE CERTAIN SERVICES.—Such centers may be altered so as to provide extended care facilities, community center facilities,~~

~~nutrition services, adult day-care services, child care services, or other supportive services.~~

~~''(b) APPLICATION.—To be eligible to receive a surplus educational facility made available under subsection (a), an organization described in section 401(b) shall submit an application to the Secretary of the Interior at such time, in such form, and containing such information, as the Secretary of the Interior determines to be necessary to carry out this section.~~

~~''SEC. 405. ADMINISTRATION.~~

~~''For the purpose of issuing rules to carry out this title, the Secretary, acting through the Assistant Secretary, shall consult with the Secretary of the Interior.~~

~~''SEC. 406. PAYMENTS.~~

~~''Payments may be made under this title (after necessary adjustments 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 to be appropriate.~~

~~''SEC. 407. AUTHORIZATION OF APPROPRIATIONS.~~

~~''There are authorized to be appropriated to carry out this title, such sums as may be necessary for fiscal years 1997 through 2001.''.~~

~~**SEC. 5. CONFORMING AMENDMENTS.**~~

~~(a) AGRICULTURE AND FOOD ACT OF 1981.—Section 1114(2) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)) is amended in subparagraphs (C) and (D) by striking "section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4))" each place it appears and inserting "subtitle C of title III of the Older Americans Act of 1965".~~

~~(b) JOB TRAINING PARTNERSHIP ACT.—~~

~~(1) Section 204(d) of the Job Training Partnership Act (29 U.S.C. 1604(d)) is amended—~~

~~(A) in paragraph (4) by striking "title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.)" and inserting "subtitle C of title II of the Older Americans Act of 1965"; and~~

~~(B) in paragraph (5)(B)(i) by striking "title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.)" and inserting "subtitle C of title II of the Older Americans Act of 1965".~~

~~(2) Section 205(a)(8) of such Act (29 U.S.C. 1605(a)(8)) is amended to read as follows:~~

~~"(8) subtitle C of title II of the Older Americans Act of 1965;".~~

~~(3) Section 455(b) of such Act (29 U.S.C. 1735(b)) is amended by striking "title V of the~~

~~Older Americans Act of 1965 (42 U.S.C. 3056 et seq.)'' and inserting ''subtitle C of title II of the Older Americans Act of 1965''.~~

~~(c) TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988.—Section 102(c)(23)(G) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2212(c)(23)(G)) is amended by striking ''any council established under section 204, 206(g)(2)(A), or 712(a)(3)(H) of the Older Americans Act of 1965 (42 U.S.C. 3015, 3017(g)(2)(A), or 3058g(a)(3)(H))'' and inserting ''section 212(c)(3)(G) or 302(a)(5)(D) of the Older Americans Act of 1965''.~~

~~(d) TITLE 31, UNITED STATES CODE.—Section 3803(c)(2)(C)(xi) of title 31, United States Code is amended by striking ''benefits under section 336 of the Older Americans Act'' and inserting ''benefits under subtitle C of title III of the Older Americans Act of 1965''.~~

~~(e) OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—Section 4360(d)(1)(C)(ii) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–4(d)(1)(C)(ii)) is amended by inserting ''of 1965'' after ''Older Americans Act''.~~

~~(f) SOCIAL SECURITY ACT.—~~

~~(1) Section 1819 of the Social Security Act (42 U.S.C. 1395i–3) is amended—~~

~~(A) in subsection (b)(4)(C)(ii)(IV) by striking "section 307(a)(12) of the Older Americans Act of 1965" and inserting "subtitle B of title II of the Older Americans Act of 1965";~~

~~(B) in subsection (c)(2)(B)(iii)(II) by striking "title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act" and inserting "subtitle B of title II of the Older Americans Act of 1965"; and~~

~~(C) in subsection (g)(5)(B) by striking "title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act" and inserting "subtitle B of title II of the Older Americans Act of 1965".~~

~~(2) Section 1919 of such Act (42 U.S.C. 1396r) is amended—~~

~~(A) in subsection (b)(4)(C)(ii)(IV) by striking "section 307(a)(12) of the Older Americans Act of 1965" and inserting "subtitle B of title II of the Older Americans Act of 1965";~~

~~(B) in subsection (c)(2)(B)(iii)(II) by striking "title III or VII of the Older Ameri-~~

~~cans Act of 1965'' and inserting ''subtitle B of title II of the Older Americans Act of 1965'';~~ ~~and~~

~~(C) in subsection (g)(5)(B) by striking ''title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act'' and inserting ''subtitle B of title II of the Older Americans Act of 1965''.~~

~~(g) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.—The last sentence of section 209 of the Housing and Community Development Act of 1974 (42 U.S.C. 1438) is amended by striking ''title III of the Older Americans Act of 1965'' and inserting ''subtitle A of title II, and subtitle A of title III, of the Older Americans Act of 1965''.~~

~~(h) NATIONAL SCHOOL LUNCH ACT.—~~

~~(1) Section 14 of the National School Lunch Act (42 U.S.C. 1762a) is amended—~~

~~(A) in subsection (a)(1) by striking ''title III of the Older Americans Act of 1965'' and inserting ''subtitle C of title III of the Older Americans Act of 1965'';~~ ~~and~~

~~(B) in subsection (c) by striking ''section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030(a)(4)) or for cash payments in~~

~~lieu of such donations under section 311(b)(1) of such Act (42 U.S.C. 3030(b)(1))'' and inserting ''subtitle C of title III of the Older Americans Act of 1965''.~~

~~(2) Section 17(o)(3)(B) of such Act (42 U.S.C. 1766(o)(3)(B)) is amended by striking ''part C of title III of the Older Americans Act of 1965'' and inserting ''subtitle C of title III of the Older Americans Act of 1965''.~~

~~(i) ENVIRONMENTAL PROGRAMS ASSISTANCE ACT OF 1984.—Section 2(a) of the Environmental Programs Assistance Act of 1984 (42 U.S.C. 4368a(a)) is amended by striking ''title V of the Older Americans Act of 1965'' each place it appears and inserting ''subtitle C of title II of the Older Americans Act of 1965''.~~

~~(j) INTERGOVERNMENTAL PERSONNEL ACT OF 1970.—Section 208(a)(3)(B) of the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728(a)(3)(B)) is amended by inserting before the semicolon the following ''(as in effect on January 4, 1971)''.~~

~~(k) NOISE CONTROL ACT OF 1972.—Section 14(g) of the Noise Control Act of 1972 (42 U.S.C. 4913(g)) is amended by inserting ''of 1965'' after ''Older Americans Act''.~~

~~(l) DOMESTIC VOLUNTEER SERVICE ACT OF 1973.—Section 221(a)(2)(A)(ii) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5021(a)(2)(A)(ii)) is amended by striking "title III of the Older Americans Act of 1965" and inserting "subtitle B of title II, and subtitles B and C of title III, of the Older Americans Act of 1965".~~

~~(m) DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT.—Section 124(b)(3) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024(b)(3)) is amended by inserting "of 1965" after "Older Americans Act".~~

~~(n) ENERGY CONSERVATION IN EXISTING BUILDINGS ACT OF 1976.—Section 412(6) of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6862(6)) is amended by striking "paragraphs (4), (5), and (6), respectively, of section 102 of the Older Americans Act of 1965" and inserting "paragraphs (24)(A), (25)(A), and (50)(A), respectively, of section 102 of the Older Americans Act of 1965".~~

~~(o) CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—~~

~~(1) Section 802(d)(2)(B)(i) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(d)(2)(B)(i)) is amended by striking "title III of the Older Americans Act of 1965" and~~

~~inserting "subtitle C of title III of the Older Americans Act of 1965".~~

~~(2) Section 803(d)(12) of such Act (42 U.S.C. 8012(d)(12)) is amended by striking "under title III of the Older Americans Act of 1965" and inserting "designated under title II of the Older Americans Act of 1965".~~

~~(p) ALZHEIMER'S DISEASE AND RELATED DEMENTIAS RESEARCH ACT OF 1992.—~~

~~(1) Section 934(b)(4) of the Alzheimer's Disease and Related Dementias Research Act of 1992 (42 U.S.C. 11261(b)(4)) is amended by striking "section 305(a) (1) and (2)(A) of the Older Americans Act of 1965 (42 U.S.C. 3025(a) (1) and (2)(A))" and inserting "paragraphs (1) and (2)(A) of section 201(a) of the Older Americans Act of 1965".~~

~~(2) Section 962(d) of such Act (42 U.S.C. 11292(d)) is amended by striking "section 305(a)(1) of the Older Americans Act of 1965" and inserting "section 201(a)(1) of the Older Americans Act of 1965".~~

~~SEC. 6. REFERENCES TO PRECEDING FISCAL YEAR.~~

~~Any reference in the Older Americans Act of 1965 to "the preceding fiscal year" that applies with respect~~

~~to funds received to carry out a program, project, or activity under such Act for a fiscal year shall be deemed to be a reference to funds received to carry out the corresponding program, project, or activity under such Act for the preceding fiscal year.~~

~~SEC. 7. ISSUANCE OF RULES.~~

~~In addition to the rules issued under section 9(f), not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall issue, and publish in the Federal Register, proposed rules for the administration of the Older Americans Act of 1965 (as amended in section 4). After allowing a reasonable period for public comment on such proposed rules, and not later than 90 days after such publication, the Secretary shall issue final rules for the administration of such Act.~~

~~SEC. 8. APPLICATION OF AMENDMENTS.~~

~~(a) FISCAL YEAR 1996.—~~

~~(1) COMMUNITY SERVICE EMPLOYMENT.—The amendment made by section 3 shall apply only with respect to fiscal year 1996 and to funds appropriated for such fiscal year to carry out title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).~~

~~(2) ENFORCEMENT.—The authority of the Secretary of Labor to enforce compliance with the re-~~

~~quirements applicable to such title with respect to actions taken prior to the effective date of section 3, shall not be affected by the amendment made by section 3.~~

~~(b) FISCAL YEARS 1997–2001.—The amendment made by section 4 shall not apply with respect to fiscal years beginning before October 1, 1996.~~

~~SEC. 9. TRANSFER OF FUNCTIONS.~~

~~(a) DEFINITIONS.—For purposes of this section, unless otherwise provided or indicated by the context—~~

~~(1) the term "Federal agency" has the meaning given to the term "agency" by section 551(1) of title 5, United States Code;~~

~~(2) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and~~

~~(3) the term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof.~~

~~(b) TRANSFER OF FUNCTIONS.—~~

~~(1) IN GENERAL.—There are transferred to the Department of Health and Human Services all functions that the Secretary of Labor exercised before the effective date of this section (including all relat-~~

~~ed functions of any officer or employee of the Department of Labor) that—~~

~~(A) relate to title V of the Older Americans Act of 1965 (as in effect on the day before the effective date of this section); and~~

~~(B) that are minimally necessary to carry out title V of such Act (as in effect on the day after the effective date of this section).~~

~~(2) TERMINATION OF AUTHORITY.—Except as otherwise specifically provided in this Act, the authority of a transferred employee to carry out a function that relates to title V of the Older Americans Act of 1965 (as in effect on the day before the effective date of this section) and is not transferred under this Act shall terminate on the effective date of this section.~~

~~(c) DETERMINATIONS OF CERTAIN FUNCTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.—If necessary, the Office of Management and Budget shall make any determination of the functions that are transferred under subsection (b).~~

~~(d) DELEGATION AND ASSIGNMENT.—Except where otherwise expressly prohibited by law or otherwise provided by this section, the Secretary of Health and Human Services may delegate any of the functions transferred to~~

~~the Department of Health and Human Services by this section and any function transferred or granted to the Department of Health and Human Services after the effective date of this section to such officers and employees of the Department of Health and Human Services as the Secretary of Health and Human Services may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the Secretary of Health and Human Services under this subsection or under any other provision of this section shall relieve such Secretary of Health and Human Services of responsibility for the administration of such functions.~~

~~(e) REORGANIZATION.—The Secretary of Health and Human Services may allocate or reallocate any function transferred under subsection (b) among the officers of the Department of Health and Human Services, and establish, consolidate, alter, or discontinue such organizational entities in the Department of Health and Human Services as may be necessary or appropriate.~~

~~(f) RULES.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall issue, and publish in the Federal Register, proposed rules for the administration of title V of the Older Americans Act of 1965 (as amended in sec-~~

~~tion 3). After allowing a reasonable period for public comment on such proposed rules, and not later than July 1, 1996, the Secretary shall issue final rules for the administration of such title.~~

~~(g) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—~~

~~(1) IN GENERAL.—Except as otherwise provided in this section, the personnel employed in connection with, and the assets, liabilities, contracts, grants, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Department of Health and Human Services. Unexpended funds transferred pursuant to this subsection shall be used only to carry out the functions of the Department of Health and Human Services under title V of the Older Americans Act of 1965 (as in effect on the day after the effective date of this section).~~

~~(2) EXISTING FACILITIES AND OTHER FEDERAL RESOURCES.—Pursuant to paragraph (1), the Secretary of Health and Human Services shall supply~~

~~such office facilities, office supplies, support services, and related expenses as may be minimally necessary to carry out such functions. None of the funds made available under this Act, or an amendment made by this Act, may be used for the construction of office facilities.~~

~~(h) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this section, and make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out this section. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this section and for such further measures and dispositions as may be necessary to effectuate the objectives of this section.~~

~~(i) EFFECT ON PERSONNEL.—~~

~~(1) TERMINATION OF CERTAIN POSITIONS.—~~ ~~Positions whose incumbents are appointed by the~~

President, by and with the advice and consent of the Senate, the functions of which are transferred by this section, shall terminate on the effective date of this section.

(2) ACTIONS.—The Secretary of Health and Human Services shall take such actions as may be necessary, including reduction in force actions, consistent with sections 3502 and 3595 of title 5, United States Code, to ensure that the personnel whose positions relate to a function described in subsection (b)(1)(A) and are not transferred under subsection (b) are separated from service.

(j) SAVINGS PROVISIONS.—

(1) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certificates, licenses, registrations, privileges, and other administrative actions—

(A) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official of a Federal agency, or by a court of competent jurisdiction, in the performance of functions that are transferred under this section; and

~~(B) that were in effect before the effective date of this section, or were final before the effective date of this section and are to become effective on or after the effective date of this section;~~

~~shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of Health and Human Services or other authorized official, a court of competent jurisdiction, or by operation of law.~~

~~(2) PROCEEDINGS NOT AFFECTED.—~~

~~(A) IN GENERAL.—This section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Department of Labor on the effective date of this section, with respect to functions transferred by this section.~~

~~(B) CONTINUATION.—Such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken from the orders, and payments shall be made pursuant to the orders, as if this section had not been enacted, and orders issued~~

~~in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.~~

~~(C) CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.~~

~~(3) SUITS NOT AFFECTED.—This section shall not affect suits commenced before the effective date of this section, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.~~

~~(4) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Labor, or by or against any individual in the official capacity of such individual as an officer of the Department of Labor, shall abate by reason of the enactment of this section.~~

~~(5) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Department of Labor relating to a function transferred under this section may be continued by the Department of Health and Human Services with the same effect as if this section had not been enacted.~~

~~(k) TRANSITION.—The Secretary of Health and Human Services may utilize—~~

~~(1) the services of officers, employees, and other personnel of the Department of Labor with respect to functions transferred to the Department of Health and Human Services by this section; and~~

~~(2) funds appropriated to such functions;~~

~~for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.~~

~~(l) REFERENCES.—A reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—~~

~~(1) the Secretary of Labor with regard to functions transferred under subsection (b), shall be deemed to refer to the Secretary of Health and Human Services; and~~

~~(2) the Department of Labor with regard to functions transferred under subsection (b), shall be deemed to refer to the Department of Health and Human Services.~~

~~(m) ADDITIONAL CONFORMING AMENDMENTS.—~~

~~(1) RECOMMENDED LEGISLATION.—After consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, the Secretary of Health and Human Services shall prepare and submit to Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this section.~~

~~(2) SUBMISSION TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit the recommended legislation referred to in paragraph (1).~~

~~SEC. 10. EFFECTIVE DATES.~~

~~(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.~~

~~(b) SPECIAL EFFECTIVE DATES.—~~

~~(1) COMMUNITY SERVICE EMPLOYMENT.—Section 9 (other than subsections (f) and (m) of such section), and the amendment made by section 3, shall take effect on July 1, 1996.~~

~~(2) OTHER PROGRAMS.—The amendments made by sections 4 and 5 shall take effect on October 1, 1996.~~

SECTION 1. SHORT TITLE.

This Act may be cited as the "Older Americans Amendments of 1996".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Amendment to the Older American Community Service Employment Act for fiscal year 1996.
Sec. 4. Amendment to the Older Americans Act of 1965.
Sec. 5. Conforming amendments.
Sec. 6. References to preceding fiscal year.
Sec. 7. Issuance of rules.
Sec. 8. Application of amendments.
Sec. 9. Transfer of functions.
Sec. 10. Effective dates.

SEC. 3. AMENDMENT TO THE OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT ACT FOR FISCAL YEAR 1996.

(a) IN GENERAL.—The Older American Community Service Employment Act (42 U.S.C. 3056–3056i) is amended to read as follows:

"TITLE V—SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

"SEC. 501. SHORT TITLE.

"This title may be cited as the 'Older American Community Service Employment Act'.

"SEC. 502. ALLOTMENT OF FUNDS FOR FISCAL YEAR 1996.

"(a) ALLOTMENT.—

"(1) RESERVATION OF FUNDS FOR TRIBAL ORGANIZATIONS.—Of the amount appropriated under section 507 for fiscal year 1996, the Assistant Secretary shall reserve not more than 1.3 percent for making grants under this title to tribal organizations.

"(2) ALLOTMENT OF FUNDS.—

"(A) ALLOTMENT.—After reserving funds under paragraph (1), the Assistant Secretary shall allot the remainder of the amount appropriated under section 507 for fiscal year 1996 among the States as follows:

"(i) IN GENERAL.—Each State shall be allotted an amount equal to the product of—

"(I) the base percentage rate for such fiscal year; and

"(II) a sum that bears the same ratio to such remainder for such fiscal year as the amount of funds allotted to such State for fiscal year 1995 to carry out this title (as in effect on the day before the date of enactment of the Older Americans Amendments of 1996) bears to the total amount allotted to all States for fiscal year 1995 to carry out such title.

"(ii) BALANCE.—The balance of the remainder for fiscal year 1996 shall be allotted in accordance with subparagraph (C).

"(B) BASE PERCENTAGE RATES.—For purposes of subparagraph (A)(i), the base percentage rate for fiscal year 1996 shall be 80 percent.

"(C) ALLOTMENTS BASED ON AGE AND PER CAPITA INCOME.—The balance referred to in subparagraph (A)(ii) shall be allotted as follows:

"(i) ALLOTMENT.—Subject to clause (ii), each State shall be allotted an amount equal to the product of—

"(I) the allotment percentage of the State; and

"(II) a sum that bears the same ratio to such balance for such fiscal year as the number of individuals 55 years of age or older in the State bears to the population of such individuals in all States.

"(ii) REDUCTION.—The amounts allotted under clause (i) shall be reduced proportionately to the extent necessary to increase other allotments made under such clause to achieve the following:

"(I) STATES.—Each State shall be allotted not less than ½ of 1 percent of the balance for the fiscal year for which the determination is made.

"(II) OTHER JURISDICTIONS.—Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than ¼ of 1 percent of the balance for the fiscal year for which the determination is made or $50,000, whichever is greater.

"(D) ALLOTMENT PERCENTAGE.—For purposes of subparagraph (C)(i)—

"(i) except as provided in clauses (ii) through (iv), the allotment percentage of each State shall be 100 percent less the percentage that bears the same ratio to 50 percent as the per capita income of the State bears to the per capita income of all the States;

"(ii) the allotment percentage for each State shall be not more than 75 percent and not less than 33⅓ percent;

"(iii) the allotment percentage for Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands shall be 75 percent; and

"(iv) subject to clause (ii), the allotment percentage for a State whose allotment percentage is not adjusted under clause (ii) or (iii) shall be adjusted proportionately to the extent necessary to achieve the percentages required under such clauses.

"(E) LIMITATION.—For purposes of subparagraphs (C)(ii)(I) and (D)(i), the term

'State' does not include Guam, American Samoa, the Virgin Islands of the United States, or the Commonwealth of the Northern Mariana Islands.

"(F) POPULATION AND PER CAPITA INCOME DETERMINATIONS.—For purposes of this paragraph, the number of individuals 55 years of age or older in each State, and the per capita income of each State, 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.

"(b) REALLOTMENT.—If any part of the amount allotted under this section to a State for a fiscal year is not distributed to the State for such fiscal year, such part shall be reallotted under this section for such fiscal year to the remaining eligible States.

"SEC. 503. SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM.

"(a) AUTHORITY FOR PROGRAM.—

"(1) GRANTS.—With funds allotted under section 502(a), the Assistant Secretary shall make grants to eligible States and tribal organizations for the purpose of providing, to unemployed low-income older individuals who have poor employment prospects (as

determined in accordance with standards issued by the States and organizations), part-time employment opportunities providing community services, including providing services for a business, to the extent permitted by subsection (b)(3).

"(2) USE OF FUNDS.—

"(A) WAGES AND BENEFITS.—

"(i) IN GENERAL.—Except as provided in clause (ii) or subparagraph (C) or (D), not less than 90 percent of the funds made available through a grant made under paragraph (1) shall be used to pay wages and benefits for older individuals who are employed under projects carried out under this title.

"(ii) SMALL STATES.—Except as provided in subparagraph (C) or (D), not less than 85 percent of the funds made available through a grant made under paragraph (1) to a small State shall be used to pay wages and benefits for older individuals who are employed under projects carried out under this title.

"(B) ADMINISTRATIVE COSTS.—

"(i) IN GENERAL.—Except as provided in clause (ii), not more than 10 percent of the funds made available through a grant made under paragraph (1) may be used to pay for administrative costs.

"(ii) SMALL STATES.—Not more than 15 percent of the funds made available through a grant made under paragraph (1) to a small State may be used to pay for administrative costs.

"(C) OTHER PARTICIPANT COSTS; PROJECTS CARRIED OUT DIRECTLY.—

"(i) IN GENERAL.—A State or tribal organization that receives a grant under paragraph (1) for a project and that elects to carry out the project directly, or through an agreement under subsection (b) with a political subdivision, may request that the Assistant Secretary provide for a fiscal year—

"(I) a general waiver of subparagraph (A); or

"(II) the general waiver and an additional waiver of subparagraph (A).

"(ii) REQUEST.—

"(I) IN GENERAL.—The State or tribal organization shall submit such a request at such time, in such form, and containing such information as the Assistant Secretary may require by rule.

"(II) INFORMATION FOR ADDITIONAL WAIVER.—Except as provided in subclause (III), a State or tribal organization that requests such an additional waiver for a fiscal year shall submit with the request information demonstrating that at least 30 percent of the participants in the projects carried out through a grant made under paragraph (1) for the previous year to the State or organization were placed in unsubsidized employment.

"(III) WAIVER.—The Assistant Secretary may elect to waive the requirement described in subclause (II) for tribal organizations serving Native American populations in which the unemployment rate (as determined by the Secretary of Labor for the most re-

cent 12-month period for which data are available, prior to the fiscal year for which the determination is made) exceeds 50 percent.

"(iii) APPROVAL.—If the Assistant Secretary determines that the State or tribal organization has submitted a request that meets the requirements of clause (ii), the Assistant Secretary shall approve the request.

"(iv) GENERAL WAIVER.—A State or tribal organization that receives only a general waiver referred to in this subparagraph may use—

"(I) not less than 80 percent of the funds made available through the grant for the fiscal year for which the waiver is requested to pay wages and benefits described in subparagraph (A)(i);

"(II) not more than 10 percent (or not more than 15 percent in the case of a small State) of such funds to pay for administrative costs; and

"(III) the remaining portion of such funds to pay for other participant costs.

"(v) ADDITIONAL WAIVER.—A State or tribal organization that receives a general waiver and an additional waiver referred to in this subparagraph may use—

"(I) not less than 75 percent of the funds made available through the grant for the fiscal year for which the waiver is requested to pay wages and benefits described in subparagraph (A)(i);

"(II) not more than 10 percent (or not more than 15 percent in the case of a small State) of such funds to pay for administrative costs; and

"(III) the remaining portion of such funds to pay for other participant costs.

"(D) OTHER PARTICIPANT COSTS; PROJECTS CARRIED OUT UNDER AGREEMENTS.—

"(i) IN GENERAL.—An entity, other than a State or tribal organization that receives a grant under subsection (a), or a po-

litical subdivision, that carries out a project under a grant made under paragraph (1) may request that the State or tribal organization that received the grant provide for a fiscal year—

"(I) a general waiver of subparagraph (A); and

"(II) an additional waiver of subparagraph (A).

"(ii) APPLICATION OF PROVISIONS.—The provisions of clauses (ii) through (v) of subparagraph (C) shall apply to such requests and such general and additional waivers, as appropriate, except that references in such provisions—

"(I) to a State or tribal organization shall be deemed to be references to the entity referred to in clause (i); and

"(II) to the Assistant Secretary shall be deemed to be references to the State or tribal organization that received the grant referred to in clause (i).

"(E) NON-FEDERAL SOURCES.—To the maximum extent practicable, an entity that car-

ries out a project under this title shall provide for the payment of the costs described in subparagraph (B), (C), or (D) from non-Federal sources.

"(b) ELIGIBILITY FOR GRANTS.—

"(1) APPLICATION AND AGREEMENTS.—To be eligible to receive a grant under subsection (a), a State or tribal organization shall submit to the Assistant Secretary an application at such time, in such form, and containing such information as the Assistant Secretary may require by rule, including an assurance that funds made available through such grant—

"(A) will be used by the State or tribal organization to carry out projects for the purpose specified in subsection (a)(1)—

"(i) directly (in accordance with the requirements of subsection (d)); or

"(ii) through agreements that satisfy the requirements of this subsection and subsection (d); and

"(B) will not be used to carry out a project involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship.

"(2) PARTICIPANTS IN AGREEMENT.—Such agreements shall be entered into by the State or tribal organization with—

"(A) public or nonprofit private agencies or organizations;

"(B) political subdivisions of States having elected or duly appointed governing officials (or combinations of such political subdivisions);

"(C) tribal organizations; and

"(D) area agencies on aging.

"(3) AGREEMENTS WITH BUSINESSES.—At the election of a State or tribal organization that receives a grant made under subsection (a), not more than 5 percent of the funds made available through the grant may be used to enter into agreements with businesses (giving special consideration to businesses in growth industries) to pay for not more than 50 percent of the cost of providing part-time employment (including arranging for the provision of part-time employment) to older individuals described in subsection (a)(1).

"(c) COMPETITIVE BASIS.—In selecting an entity with whom a State or tribal organization will enter into an agreement under subsection (b), the State or organization—

"(1) shall make the selection on a competitive basis; and

"(2) shall take into consideration, where appropriate, the demonstrated ability of the entity to provide employment (including arranging for the provision of employment) to older individuals as described in subsection (a)(1).

"(d) REQUIREMENTS.—

"(1) IN GENERAL.—Each agreement entered into under subsection (b) for a project shall provide that no payment shall be made by the State or tribal organization toward the cost of such project unless the State or tribal organization determines that such project, or the entity that carries out such project, as appropriate, will satisfy each of the conditions described in paragraphs (2) through (13). Each State or tribal organization that carries out a project directly under subsection (b) shall ensure that such project or the State or organization, as appropriate, will satisfy each of the conditions described in paragraphs (2) through (13).

"(2) FEDERAL SHARE REQUIREMENT.—

"(A) IN GENERAL.—The entity that carries out the project shall use funds received for such project that are made available through a grant made under subsection (a) to pay for the Federal share of the cost of the project.

"(B) FEDERAL SHARE.—The Federal share of the cost of the project shall be not more than 85 percent (or not more than 50 percent in the case of a project carried out under an agreement described in subsection (b)(3)).

"(C) NON-FEDERAL SHARE.—The non-Federal share of such cost shall be contributed 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.

"(3) PERSONNEL.—The project shall provide employment only for older individuals described in subsection (a)(1), except for necessary technical, administrative, and supervisory personnel. Such personnel shall, to the fullest extent possible, be recruited from among older individuals described in subsection (a)(1).

"(4) COMMUNITIES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if such project is carried out by or under an agreement with a State, the project shall provide employment for such individuals in the community in which such individuals reside, or in nearby communities.

"(B) RESERVATIONS.—If such project is carried out by a tribal organization that receives a grant under subsection (a), or enters into an agreement under subsection (b) with a State that receives a grant under subsection (a), the project shall provide employment for such individuals 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)).

"(5) SERVICES.—The project (except a project carried out under an agreement described in subsection (b)(3)) shall employ older individuals described in subsection (a)(1) in positions in which the individuals provide services—

"(A) related to publicly owned and operated facilities or public projects; or

"(B) related to projects sponsored by organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 that are exempt from taxation under section 501(a) of such Code.

"(6) GENERAL WELFARE.—The project shall contribute to the general welfare of the community in which the project is carried out.

"(7) EMPLOYMENT IMPACTS.—The project shall—

"(A) result in an increase in employment opportunities over the opportunities that would otherwise be available;

"(B) not result in the displacement (including partial displacement, such as a reduction in the hours of nonovertime work or wages or employment benefits) of currently employed workers (as of the date of the beginning of the project); and

"(C) not impair existing contracts (as of the date of the beginning of the project) or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed.

"(8) RECRUITMENT AND SELECTION.—In carrying out the project, the entity shall utilize methods of recruitment and selection (including listing job vacancies with an employment agency operated by any State or political subdivision of a State) that will ensure that the maximum number of older individuals described in subsection (a)(1) will have an opportunity to participate in the project.

"(9) TRAINING.—The project shall include such training as may be necessary to make the most effective use of the skills and talents of such individuals who are participating in the project and assist in their transition into employment for which no financial assistance is provided under this title.

"(10) ADVICE.—The entity shall establish or administer the project after receiving the advice of—

"(A) individuals competent in the field of service in which the project will provide employment; and

"(B) individuals who are knowledgeable with regard to the needs of older individuals.

"(11) ASSESSMENT.—The entity shall prepare an assessment of—

"(A) the skills and talents of each participating older individual;

"(B) the need of the older individual for supportive services; and

"(C) the ability of the older individual to perform community service employment;

except to the extent that the project has an assessment of such skills and talents, such need, or such ability, of the individual that was prepared recently pursuant

to another Federal or State employment or job training program.

"(12) NOTICE AND EXPLANATION.—The entity that carries out such project shall post in the project workplace a notice, and shall make available to each individual 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.

"(13) PRIORITY IN EMPLOYMENT OPPORTUNITIES.—In providing employment opportunities (including arranging for the provision of employment opportunities) under the project, such entity shall give priority to low-income older individuals described in subsection (a)(1) who are 60 years of age or older.

"(e) PREREQUISITE DETERMINATIONS AND COORDINATION.—

"(1) DETERMINATIONS.—To effectively carry out subsection (b), a State or tribal organization that receives a grant under subsection (a) for a fiscal year shall, after consultation with the appropriate area agencies on aging and with other organizations that

received funds under this title in the preceding fiscal year—

"(A) make a determination identifying the localities in the State (or on an Indian reservation if a tribal organization receives such a grant or enters into an agreement with a State that receives such a grant), in which projects described in subsection (b) are most needed;

"(B) in making such determination, consider the local employment situations and the types of skills possessed by available local older individuals described in subsection (a)(1); and

"(C) make a determination identifying potential projects for, and the number and percentage of such individuals in the local population of, each such locality.

"(2) COORDINATION.—To increase employment opportunities available to older individuals, the State or tribal organization shall coordinate the projects assisted under this title with—

"(A) other programs, projects, and activities carried out under this Act; and

"(B) other Federal or State employment or job training programs.

"(3) PARTICIPANTS.—To the maximum extent practicable, the State or tribal organization shall ensure that entities that carry out projects under this title provide employment (including arranging for the provision of employment) under this title to older individuals who on the day before the effective date of section 3 of the Older Americans Amendments of 1996 were participants under an agreement entered into under section 502(b) (as in effect on the day before such date).

"(f) EQUITABLE USE OF FUNDS.—To the maximum extent practicable, the State or tribal organization shall use funds available for this title to enter into agreements under subsection (b), or carry out this title, in an equitable manner, taking into consideration the number of eligible older individuals in the various geographical areas served under the agreements or by the State or organization and the relative distribution of such individuals among urban and rural areas.

"(g) PRIOR SUBMISSION OF PROJECT DESCRIPTION.—If an entity carries out a project under this title in a planning and service area, and the entity is not the area agency on aging for the planning and service area, the entity shall carry out the project in consultation with the area agency on aging and shall submit to the area agency on aging,

not less than 30 days before undertaking the project, a description (including the location) of such project.

"(h) ALTERNATIVE WORK MODES; TECHNICAL ASSISTANCE.—To assist entities carrying out, and participants in, projects assisted under this title, the State or tribal organization may develop alternatives for innovative work modes and provide technical assistance in creating job opportunities through work sharing and other experimental methods to groups representing business and industry, and workers, as well as to individual employers, where appropriate.

"(i) REPORT.—If a State or tribal organization elects under subsection (b) to enter into agreements described in paragraph (3) of such subsection for a fiscal year, the State or tribal organization shall submit to the Assistant Secretary a report describing the projects carried out under such agreements.

"(j) DATA COLLECTION AND ANALYSIS.—A State or tribal organization that receives a grant under subsection (a) for a project shall use a portion of the funds available for administrative costs, as described in subsection (a)(2)(B)—

"(1) to collect data and carry out analyses related to the need for community service employment within the population served under the grant; and

"(2) to disseminate information obtained through the data collection and analyses.

"(k) RULES.—The Secretary shall issue, and amend from time to time, rules that require States and tribal organizations that receive grants under subsection (a) to establish, to the maximum extent practicable, for projects carried out under this title the goal of annually placing not less than 20 percent of project participants in employment for which no financial assistance is provided under this title.

"SEC. 504. PARTICIPANTS NOT FEDERAL EMPLOYEES.

"(a) PROJECT PARTICIPANTS.—Older individuals described in section 503(a)(1) who participate in a project assisted under this title shall not be considered to be Federal employees as a result of such participation and shall not be subject to the provisions of part III of title 5, United States Code.

"(b) WORKMEN'S COMPENSATION.—No State or tribal organization shall enter into an agreement under section 503(b) with, or carry out such a project through, an entity who is, or whose employees are, under State law, exempted from the operation of the State workmen's compensation law, generally applicable to employees, unless the entity undertakes to provide either through insurance by a recognized carrier, or by self-insurance, as authorized by State law, that the individuals employed under the contract shall enjoy

workmen's compensation coverage equal to such coverage provided by law for covered employment.

"SEC. 505. EMPLOYMENT ASSISTANCE AND FEDERAL HOUSING AND FOOD STAMP PROGRAMS.

"Funds received by eligible individuals from projects carried out under 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 (7 U.S.C. 2011 et seq.).

"SEC. 506. DEFINITIONS.

"As used in this title:

"(1) ADMINISTRATIVE COSTS.—The term 'administrative costs', used with respect to a project, means—

"(A) the costs of—

"(i) salaries, wages, and fringe benefits for project administrators;

"(ii) consumable office supplies used by project staff;

"(iii) development, preparation, presentation, management, and evaluation of the project;

"(iv) establishment and maintenance of accounting and management information systems;

"(v) establishment and maintenance of advisory councils;

"(vi) travel of the project administrators;

"(vii) rent, utilities, custodial services, and indirect costs attributable to the project;

"(viii) training of staff and technical assistance to subproject sponsor staff;

"(ix) equipment and material for use by project staff; or

"(x) audit services; and

"(B) the costs and expenses described in paragraph (6)(B).

"(2) COMMUNITY SERVICE EMPLOYMENT.—The term 'community service employment' means employment described in section 503(a)(1).

"(3) COMMUNITY SERVICES.—The term 'community services' means—

"(A) social, health, welfare, and educational services (particularly literacy tutoring);

"(B) legal and other counseling services and assistance, including tax counseling and assistance and financial counseling;

"(C) library and recreational services, and other similar services;

"(D) conservation, maintenance, or restoration of natural resources;

"(E) community betterment or beautification;

"(F) antipollution and environmental quality efforts;

"(G) weatherization activities;

"(H) economic development;

"(I) services for a business, to the extent permitted by section 503(b)(3); and

"(J) such other services as the Secretary determines by regulation to be essential and necessary to the community involved.

"(4) LOW-INCOME.—The term 'low-income', used with respect to an individual, means an individual who is a member of a family that has an income that is not more than 125 percent of the poverty line.

"(5) OLDER INDIVIDUAL—The term 'older individual' means an individual who is 55 years of age or older.

"(6) OTHER PARTICIPANT COSTS.—

"(A) IN GENERAL.—The term 'other participant costs' includes—

"(i) the costs for participants of—

"(I) transportation;

"(II) training, including training described in section 503(d)(9); and

"(III) special job or personal counseling; and

"(ii) incidental expenses necessary for the participation of the participants, such as workshoes, safety eyeglasses, uniforms, tools, and similar items.

"(B) EXCLUSION.—The term shall not include—

"(i) the costs of performing assessments, including the assessment described in section 503(d)(11);

"(ii) administrative expenses relating to the training of participants;

"(iii) the costs of providing counseling to participants;

"(iv) the costs of providing supportive services to participants;

"(v) transportation costs incurred in training;

"(vi) the costs of evaluating participants for continued participation in employment in a project described in this title; or

"(vii) the costs of developing host agency assignments and unsubsidized employment for participants.

"(7) PLACED IN UNSUBSIDIZED EMPLOYMENT.—

"(A) IN GENERAL.—The term 'placed in unsubsidized employment' means, with respect to an individual who was a participant in a project described in this title, that—

"(i)(I) the individual was placed in a position with an employer not later than 90 days after the individual terminated participation in the project, and the position was not subsidized with Federal funds; and

"(II) the placement was attributable to participation in the project;

"(ii) the employer intended, on the date of the placement, to employ the individual in the position for not less than 90 days;

"(iii) the individual was still employed in the position 30 days after the placement; and

"(iv) the individual was better off economically when employed in the position than the individual was when participating in the project.

"(B) BETTER OFF ECONOMICALLY.—As used in this paragraph, the term 'better off economically', used with respect to an individual, means an individual who was a participant in a project described in this title and was placed in a position of employment if—

"(i) the individual received greater income for employment in the position than for participation in the project;

"(ii) the individual received greater benefits (as defined by the State in which the project is located) for employment in the position than for participation in the project; or

"(iii) the position met 2 or more of the following criteria:

"(I) The position provided to the individual 20 or more hours of employ-

ment per week and a wage that is not less than the minimum wage determined in accordance with section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

"(II) The position was consistent with the individual development plan for the individual.

"(III) The position provided free housing to the individual.

"(IV) The position provided free food or meals to the individual.

"(V) The position provided health benefits to the individual.

"(VI) The position provided free transportation, or transportation at a reduced cost, to the individual.

"(VII) The position provided to the individual such economic benefits, other than the benefits described in subclauses (I) through (VI), as the State in which the project was located determined to be appropriate.

"(8) SMALL STATE.—The term 'small State' means—

"(A) a State whose allotment under section 502 is increased as a result of the condition specified in section 502(a)(2)(C)(ii)(I); and

"(B) a State referred to in section 502(a)(2)(C)(ii)(II).

"(9) STATE.—The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

"(10) TRIBAL ORGANIZATION.—Notwithstanding section 102, the term 'tribal organization' means—

"(A) the recognized governing body of an Indian tribe;

"(B) the legally established organization of Indians that is controlled, sanctioned, or chartered by the recognized governing body of an Indian tribe;

"(C) a legally established organization of Indians that is democratically elected by the adult members of the Indian community to be served by such organization and that includes the maximum participation of Indians in all phases of the activities of the organization; and

"(D) a public or nonprofit private organization that is primarily controlled by and comprised of Indians or Indian tribes.

"SEC. 507. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal year 1996.

"(b) PROGRAM YEAR AND EXTENSIONS.—

"(1) PROGRAM YEAR.—Amounts appropriated under subsection (a) for a fiscal year shall be used during the annual period that—

"(A) begins on July 1 of the calendar year immediately following the beginning of such fiscal year; and

"(B) ends on June 30 of the following calendar year.

"(2) EXTENSIONS.—If, in accordance with section 502(b), any part of an allotment is reallotted to a State for a fiscal year, such part shall be considered to be a portion of the appropriate allotment of the State for the fiscal year, but shall remain available for obligation for the State until the end of the succeeding fiscal year.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 102(1) (42 U.S.C. 3002(1)) is amended by striking all that follows "Services" and inserting a period.

(2) The second sentence of section 201(a) (42 U.S.C. 3011(a)) is amended by striking "Except for title V, the" and inserting "The".

(3) Section 203(a)(3)(A) (42 U.S.C. 3013(a)(3)(A)) is amended by inserting "(as in effect on the day before the date of enactment of the Older Americans Amendments of 1996)" after "507".

SEC. 4. AMENDMENT TO THE OLDER AMERICANS ACT OF 1965.

The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Older Americans Act of 1965'.

"SEC. 2. TABLE OF CONTENTS.

"The table of contents for this Act is as follows:

"Sec. 1. Short title.
"Sec. 2. Table of contents.

"TITLE I—GENERAL PROVISIONS

"Subtitle A—Core Objectives and Definitions

"Sec. 101. Core objectives.
"Sec. 102. Definitions.

"Subtitle B—Administration

"Sec. 111. Establishment of Administration on Aging.
"Sec. 112. Functions of the Assistant Secretary.
"Sec. 113. Reports.

"Sec. 114. Reduction of paperwork.
"Sec. 115. Surplus property eligibility.
"Sec. 116. Treatment of costs.
"Sec. 117. Disaster relief.
"Sec. 118. Authorization of appropriations.

"Subtitle C—Funding

"Sec. 121. Allotments; Federal share.
"Sec. 122. Authorization of appropriations.
"Sec. 123. Additional funds available for nutrition services.

"TITLE II—STATE PROGRAMS ON AGING

"Subtitle A—General Provisions

"Sec. 201. Eligibility of States.
"Sec. 202. State plans.
"Sec. 203. Planning, coordination, evaluation, and administration of State plans.
"Sec. 204. Payments.

"Subtitle B—State Long-Term Care Ombudsman Program

"Sec. 211. Establishment.
"Sec. 212. Requirements for State long-term care ombudsman program.

"Subtitle C—Senior Community Service Employment Program

"Sec. 221. Short title.
"Sec. 222. Definitions.
"Sec. 223. Senior community service employment program.
"Sec. 224. Participants not Federal employees.
"Sec. 225. Employment assistance and Federal housing and food stamp programs.

"Subtitle D—Disease Prevention and Health Promotion Program

"Sec. 231. Establishment of grant program.
"Sec. 232. Distribution to area agencies on aging.

"TITLE III—LOCAL PROGRAMS ON AGING

"Subtitle A—General Provisions

"Sec. 301. Eligibility of local organizations.
"Sec. 302. Area plans.
"Sec. 303. Services provided by charitable, religious, or private organizations.

"Subtitle B—Supportive Services and Senior Centers

"Sec. 311. Program authorized.

"Subtitle C—Nutrition Services

"Sec. 321. Program authorized.
"Sec. 322. Additional requirements.

"TITLE IV—NATIVE AMERICAN PROGRAMS ON AGING

"Sec. 401. Grants for services to Native Americans.
"Sec. 402. Applications for grants.
"Sec. 403. Distribution of funds among eligible organizations.
"Sec. 404. Surplus educational facilities.
"Sec. 405. Administration.
"Sec. 406. Payments.
"Sec. 407. Authorization of appropriations.

"TITLE I—GENERAL PROVISIONS

"Subtitle A—Core Objectives and Definitions

"SEC. 101. CORE OBJECTIVES.

"It is the purpose of this Act to fulfill the responsibility of the United States to assist older individuals to remain living independently and with dignity for as long as possible in their communities, and to encourage and assist State agencies, area agencies on aging, and Indian tribes in concentrating resources and collaborating with the private sector in order to—

"(1) develop greater capacity, and foster the development and implementation of comprehensive and coordinated systems to serve older individuals, by entering into cooperative arrangements in each State for the planning and provision of supportive services (including services to support multipurpose senior centers), nutrition services, State long-term care ombudsman programs, senior community service employment programs, and disease prevention and health promotion programs; and

"(2) achieve core objectives consisting of—

"(A) securing and maintaining maximum independence and dignity in a home environment for older individuals capable of self-care with appropriate supportive services and nutrition services;

"(B) removing individual and social barriers to personal independence for older individuals;

"(C) promoting a continuum of care for vulnerable older individuals;

"(D) fostering ways for older individuals to receive managed in-home and community-based long-term care services;

"(E) ensuring that older individuals will be protected against abuse, neglect, and exploitation; and

"(F) promoting employment opportunities and community services for older individuals.

"SEC. 102. DEFINITIONS.

"Except as otherwise provided in this Act, as used in this Act:

"(1) ABUSE.—The term 'abuse' means (except when the term is used as part of the term 'drug and alcohol abuse') 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.

"(2) ADMINISTRATION.—The term 'Administration' means the Administration on Aging.

"(3) ADULT CHILD WITH A DISABILITY; ADULT CHILDREN WITH DISABILITIES.—

"(A) ADULT CHILD WITH A DISABILITY.—The term 'adult child with a disability' means a child who—

"(i) is 18 years of age or older;

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

"(iii) has a disability.

"(B) ADULT CHILDREN WITH DISABILITIES.—The term 'adult children with disabilities' means more than 1 adult child with a disability.

"(4) ALASKA NATIVE.—The term 'Alaska Native' means an individual who is a member of an Alaska Native organization.

"(5) ALASKA NATIVE ORGANIZATION.—The term 'Alaska Native organization' means a Native village, regional corporation, or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), that is recognized as eligible for the special programs and services provided by the United States to Alaska Natives because of their status as Alaska Natives.

"(6) AREA AGENCY ON AGING.—The term 'area agency on aging' means an area agency on aging designated under section 201(a)(2)(A), a State agency performing the functions of an area agency on aging as the result of a designation of the entire State as a single planning and service area, or a State agency that is administering a program under section 302(c)(3) (for purposes of provisions relating to such program).

"(7) ASSISTANT SECRETARY.—The term 'Assistant Secretary' means the Assistant Secretary for Aging.

"(8) ASSISTIVE TECHNOLOGY.—The term 'assistive technology' means technology, an engineer-

ing methodology, or a scientific principle, appropriate to meet the needs of, and address the barriers confronted by, older individuals with functional limitations.

"(9) BOARD AND CARE FACILITY.—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)).

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

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

"(12) CASE MANAGEMENT SERVICE.—The term 'case management service'—

"(A) means assessment, development, and implementation, carried out in cooperation with an older individual (or the caregiver or caretaker

of the individual, where appropriate), of a care plan—

"(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, environmental, economic, 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, including assistive technology, to meet the needs of the older individual, including coordination of the resources and services—

"(I) with the services identified in 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, including assistive technology, are being provided;

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

"(I) the older individual; or

"(II) if appropriate, a caregiver or caretaker 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.

"(13) CHILD.—The term 'child' means (except when the term appears as part of the term 'adult child with a disability') an individual who is less than 18 years of age.

"(14) COMMUNITY SERVICES.—The term 'community services' means—

"(A) social, health, welfare, and educational services (particularly literacy tutoring);

"(B) legal and other counseling services and assistance, including tax counseling and assistance and financial counseling;

"(C) library and recreational services, and other similar services;

"(D) conservation, maintenance, or restoration of natural resources;

"(E) community betterment or beautification;

"(F) antipollution and environmental quality efforts;

"(G) weatherization activities;

"(H) economic development;

"(I) services for a business, to the extent permitted by section 223(b)(3); and

"(J) such other services as the Secretary determines by regulation to be essential and necessary to the community.

"(15) COMPREHENSIVE AND COORDINATED SYSTEM.—The term 'comprehensive and coordinated system' means a system for providing all necessary supportive services, and 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 nonprofit private agency, organization, or institution;

"(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.

"(16) DISABILITY.—The term 'disability' means (except when the term is used as part of the term 'severe disability', 'developmental disabilities', 'physical

and mental disabilities', or 'physical disabilities') a condition attributable to a 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 major life activities:

"(A) Self-care.

"(B) Use of receptive and expressive language.

"(C) Learning.

"(D) Achievement of mobility.

"(E) Self-direction.

"(F) Independent living.

"(G) Achievement of economic self-sufficiency.

"(H) Cognitive functioning.

"(I) Emotional adjustment.

"(17) ELDER ABUSE, NEGLECT, AND EXPLOITATION.—The term 'elder abuse, neglect, and exploitation' means abuse, neglect, and exploitation, of an older individual.

"(18) EXPLOITATION.—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.

"(19) FOCAL POINT.—The term 'focal point' means an entity that maximizes the collocation and coordination of services for older individuals.

"(20) FRAIL.—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 2 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 3 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.

"(21) GREATEST ECONOMIC NEED.—The term 'greatest economic need' means the need resulting from an income level at or below the poverty line.

"(22) GREATEST SOCIAL NEED.—The term 'greatest social need' means the need caused by non-economic factors that 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.

"(23) IN-HOME SERVICES.—The term 'in-home services' includes—

"(A) services of homemaker 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 programs carried out under other Acts, except that not more than $150 per client

may be expended under this Act for such modification;

"(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 202; and

"(ii) by the area agency on aging in the area plan submitted in accordance with section 302.

"(24) INDIAN.—The term 'Indian' means—

"(A) except as used in title IV, an individual who is a member of an Indian tribe; and

"(B) as used in title IV, an individual who is a member of an Indian tribe, as defined in paragraph (25)(B).

"(25) INDIAN TRIBE.—The term 'Indian tribe' means—

"(A) except as used in title IV, any tribe, band, nation, or other organized group or community that is—

"(i) recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; or

"(ii) located on, or in proximity to, a Federal reservation or rancheria; and

"(B) as used in title IV, any tribe, band, nation, or other organized group or community that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(26) INFORMATION AND ASSISTANCE SERVICE.—The term 'information and assistance service' means a service for older individuals that—

"(A) provides the individuals with current information (as of the date the information is provided) 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) educates the individuals about insurance benefits and public benefits (including various health care benefit options available to qualified medicare beneficiaries, as defined in

section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p)), within an area, such as fee-for-service options, health maintenance organization and other managed care options, and benefits through medicare supplemental policies);

"(E) 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

"(F) serves an entire community of older individuals, particularly—

"(i) older individuals with greatest social need; and

"(ii) older individuals with greatest economic need.

"(27) INSURANCE BENEFIT.—The term 'insurance benefit' means a benefit under—

"(A) the medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

"(B) the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(C) a public or private insurance program;

"(D) a medicare supplemental policy; or

"(E) a pension plan.

"(28) LEGAL ASSISTANCE.—The term 'legal assistance'—

"(A) means legal advice and representation provided by an attorney to an older individual 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 to such an older individual; and

"(ii) counseling or representation by a nonlawyer where permitted by law to such an older individual.

"(29) LONG-TERM CARE FACILITY.—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) as used in section 212, a board and care facility; and

"(D) any other adult care home similar to a facility or institution described in subparagraph (A), (B), or (C).

"(30) LOW-INCOME.—The term 'low-income', used with respect to an individual, means—

"(A) except as used in subtitle C of title II, an individual who is a member of a family that has an income that is not more than 150 percent of the poverty line; and

"(B) as used in subtitle C of title II, an individual who is a member of a family that has an income that is not more than 125 percent of the poverty line.

"(31) MEDICARE SUPPLEMENTAL POLICY.—The term 'medicare supplemental policy' has the meaning given the term in section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1)).

"(32) MULTIPURPOSE SENIOR CENTER.—The term 'multipurpose senior center' means a community facility for the organization and provision of a broad

spectrum of services for older individuals, which may include the provision of health (including mental health), social, nutritional, and educational services and the provision of facilities for recreational activities, for older individuals.

"(33) NATIVE AMERICAN.—The term 'Native American' means—

"(A) an Indian;

"(B) an Alaska Native; or

"(C) a Native Hawaiian.

"(34) NATIVE HAWAIIAN.—The term 'Native Hawaiian' means any individual any of whose ancestors were natives of the area that consists of the Hawaiian Islands prior to 1778.

"(35) NEGLECT.—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.

"(36) NONPROFIT.—The term 'nonprofit', used with respect to any agency, institution, or organization, means an agency, institution, or organization that is, or is owned and operated by, 1 or more cor-

porations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(37) NUTRITION SERVICES.—The term 'nutrition services' means the services authorized to be provided through a project carried out under subtitle C of title III (including similar services provided under title IV).

"(38) OLDER INDIVIDUAL.—The term 'older individual' means—

"(A) except as used in subtitle C of title II, an individual who is 60 years of age or older; and

"(B) as used in subtitle C of title II, an individual who is 55 years of age or older.

"(39) PENSION PLAN.—The term 'pension plan' means an employee pension benefit plan, as defined in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)).

"(40) PHYSICAL HARM.—The term 'physical harm' means bodily injury, bodily impairment, or disease.

"(41) PLANNING AND SERVICE AREA.—The term 'planning and service area' means an area designated by a State agency under section 201(a)(1)(E), includ-

ing a single planning and service area described in section 301(a)(1)(E), an area designated as described in subsection (c), (d), or (e) of section 201, and a remaining area described in section 201(c)(2).

"(42) POVERTY LINE.—The term 'poverty line' means the poverty line (as defined by the Office of Management and Budget, and revised annually by the Secretary in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)) applicable to a family of the size involved.

"(43) PUBLIC BENEFIT.—The term 'public benefit' means a benefit under—

"(A) the Federal Old-Age, Survivors, and Disability Insurance Benefits programs under title II of the Social Security Act (42 U.S.C. 401 et seq.);

"(B) the medicare program established under title XVIII of the Social Security Act, including benefits as a qualified medicare beneficiary, as defined in section 1905(p) of the Social Security Act (42 U.S.C. 1396d(p));

"(C) the medicaid program established under title XIX of the Social Security Act;

"(D) the program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

"(E) the program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.);

"(F) the supplemental security income program established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.); or

"(G) a program determined to be appropriate by the Assistant Secretary.

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

"(45) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(46) SEVERE DISABILITY.—The term 'severe disability' means a severe, chronic disability attributable to a 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 (I) of paragraph (16).

"(47) STATE.—The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

"(48) STATE AGENCY.—The term 'State agency' means the agency designated under section 201(a)(1).

"(49) SUPPORTIVE SERVICE.—The term 'supportive service' means a service described in section 311.

"(50) TRIBAL ORGANIZATION.—

"(A) IN GENERAL.—Except as used in title IV, the term 'tribal organization' means—

"(i) the recognized governing body of an Indian tribe;

"(ii) the legally established organization of Indians that is controlled, sanctioned, or chartered by the recognized governing body of an Indian tribe;

"(iii) a legally established organization of Indians that is democratically elected by the adult members of the Indian community to be served by such organization and that includes the maximum participation of In-

dians in all phases of the activities of the organization; and

"(iv) a public or nonprofit private organization that is primarily controlled by and comprised of Indians or Indian tribes.

"(B) TITLE IV.—

"(i) DEFINITION.—As used in title IV, the term 'tribal organization' means—

"(I) the recognized governing body of an Indian tribe;

"(II) the legally established organization of Indians that is controlled, sanctioned, or chartered by the recognized governing body of an Indian tribe; and

"(III) a legally established organization of Indians that is democratically elected by the adult members of the Indian community to be served by such organization and that includes the maximum participation of Indians in all phases of the activities of the organization.

"(ii) CLARIFICATION.—As used in this subparagraph, the terms 'Indian' and 'In-

dian tribe' have the meanings given the terms in paragraphs (24)(B) and (25)(B), respectively.

"(51) UNIT OF GENERAL PURPOSE LOCAL GOVERNMENT.—The term 'unit of general purpose local government' means a political subdivision of a State, whose authority is general and not limited to only 1 function or combination of related functions.

"Subtitle B—Administration

"SEC. 111. ESTABLISHMENT OF ADMINISTRATION ON AGING.

"(a) ESTABLISHMENT.—There is established in the Office of the Secretary, an Administration on Aging, which shall be headed by an Assistant Secretary for Aging. This Act shall be administered through the Administration, acting under the supervision of the Secretary.

"(b) ASSISTANT SECRETARY.—The Assistant Secretary shall be appointed by the President by and with the advice and consent of the Senate.

"(c) DESIGNATION RELATING TO THE ADMINISTRATION OF THE STATE LONG-TERM CARE OMBUDSMAN PROGRAM.—The Assistant Secretary shall designate an employee of the Administration who shall be responsible, under the supervision of the Assistant Secretary, for the adminis-

tration of the State long-term care ombudsman program carried out under this Act.

"(d) DESIGNATION RELATING TO THE ADMINISTRATION OF THE SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM.—The Assistant Secretary shall designate an employee of the Administration who shall be responsible, under the supervision of the Assistant Secretary, for the administration of subtitle C of title II.

"(e) DESIGNATION RELATING TO THE ADMINISTRATION OF NUTRITION SERVICES.—

"(1) IN GENERAL.—The Assistant Secretary shall designate an employee of the Administration who shall be responsible, under the supervision of the Assistant Secretary, for the administration of subtitle C of title III.

"(2) QUALIFICATIONS.—The employee described in paragraph (1) shall—

"(A) have expertise in nutrition and dietary services and planning; and

"(B)(i) be a registered dietitian;

"(ii) be a credentialed nutrition professional; or

"(iii) have education and training that is substantially equivalent, as determined by the Assistant Secretary, to the education and train-

ing for a registered dietitian or a credentialed nutrition professional.

"(f) DESIGNATION RELATING TO THE ADMINISTRATION OF PROGRAMS AFFECTING NATIVE AMERICANS.—The Assistant Secretary shall designate an employee of the Administration who has expertise with respect to programs and services affecting Native Americans, to be responsible, under the supervision of the Assistant Secretary, for the administration of title IV and for coordination of other programs, projects, and activities carried out under this Act that affect Native Americans.

"SEC. 112. FUNCTIONS OF THE ASSISTANT SECRETARY.

"(a) DUTIES.—The duties of the Assistant Secretary are as follows:

"(1) ADMINISTRATION.—The Assistant Secretary shall effectively carry out this Act by administering grants made and contracts entered into under this Act, and carrying out programs under this Act.

"(2) TECHNICAL ASSISTANCE AND CONSULTATION FOR POLITICAL SUBDIVISIONS, AND TRIBAL ORGANIZATIONS.—The Assistant Secretary shall provide technical assistance to, and consult with, States, political subdivisions of States, and tribal organizations, with respect to programs for older individuals and aging.

"(3) ASSISTANCE TO SECRETARY.—The Assistant Secretary shall directly assist the Secretary in all matters pertaining to problems of older individuals and aging.

"(4) COORDINATION OF AND ASSISTANCE IN PLANNING.—The Assistant Secretary shall coordinate, and assist in, the planning and development by public agencies (including Federal, State, and local agencies and tribal organizations) and private agencies and organizations of programs for older individuals to facilitate the establishment of a nationwide network of comprehensive, coordinated services, and opportunities, for older individuals.

"(5) STATISTICAL DATA REGARDING ASSISTED ACTIVITIES.—The Assistant Secretary shall collect, for each fiscal year beginning after September 30, 1996, directly or by contract, statistical data regarding services and activities provided with funds made available under this Act, including—

"(A) with respect to each type of service or activity provided with such funds (except any service or activity relating to the State long-term care ombudsman program carried out under this Act—

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

"(ii) the unduplicated number of individuals who received such service or participated in such activity;

"(iii) the unduplicated number of low-income minority individuals who received such service or participated in such activity; and

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

"(B)(i) State long-term care ombudsman program data, including numbers, types, and disposition of cases and complaints;

"(ii) major institutional care issues identified and addressed by the State long-term care ombudsman program; and

"(iii) data on the statewide program development, operations, and outreach of such program; and

"(C) the number of multipurpose senior centers that received such funds.

"(6) UNIFORM DATA COLLECTION PROCEDURES.—The Assistant Secretary, in order to facili-

tate the collection of data described in paragraph (5), shall, not later than 1 year after the date of enactment of the Older Americans Amendments of 1996—

"(A) design and implement uniform data collection procedures for use by State agencies, including—

"(i) standardized data collection procedures;

"(ii) procedures for collecting information regarding gaps in services needed by older individuals, as identified by service providers who assist older individuals by providing, collectively, supportive services and nutrition services; and

"(iii) procedures for assessing the unmet need for services provided under this Act; and

"(B) prescribe uniform definitions and nomenclature for the categories of data to be collected (including standard definitions of terms, such as the term 'resolution of a complaint', to be used under the State long-term care ombudsman program carried out under this Act).

"(7) ADVOCACY.—The Assistant Secretary shall serve as the effective and visible advocate for older in-

dividuals, within the Department of Health and Human Services and with other departments, agencies, and instrumentalities of the Federal Government by maintaining active review of and commenting on all Federal policies affecting older individuals.

"(8) INFORMATION ON COMMUNITY RESOURCES.—The Assistant Secretary shall establish and operate, directly or by grant or contract, a nationwide toll-free telephone line that provides information and assistance that—

"(A) enable individuals to locate community resources that may be available to older individuals and their caregivers; and

"(B) build on, support, and are fully coordinated with the activities of State agencies and area agencies on aging.

"(b) FEDERAL AGENCY CONSULTATION.—The Assistant Secretary, in carrying out the purpose and provisions of this Act, shall coordinate activities with, advise, consult with, and cooperate with the head of each department, agency, or instrumentality of the Federal Government proposing or administering a program or service substantially related to the purpose of this Act, with respect to such program or service. The Assistant Secretary, in carrying out this Act, may request the technical assistance and cooperation of the

heads of such departments, agencies, and instrumentalities of the Federal Government as the Assistant Secretary considers to be appropriate. The head of each department, agency, or instrumentality of the Federal Government proposing to establish or modify any program or service substantially related to the purpose of this Act shall coordinate activities, consult, and cooperate with the Assistant Secretary, with respect to such program or service.

"(c) POWERS.—In carrying out this Act, the Assistant Secretary may exercise the following powers:

"(1) CONSULTATION; TECHNICAL ASSISTANCE.—The Assistant Secretary may consult with and provide technical assistance to public or nonprofit private agencies, organizations, and institutions.

"(2) TRAINING; TECHNICAL INSTRUCTION.—The Assistant Secretary may provide short-term training and technical instruction to public or non-profit private agencies, organizations, and institutions.

"(3) GRANTS AND CONTRACTS.—

"(A) IN GENERAL.—The Assistant Secretary, using funds appropriated under section 118(b), may make grants to States, public or nonprofit private agencies, organizations, and institutions, and tribal organizations, and may enter into contracts with such agencies, organi-

zations, and institutions, and with individuals, for activities—

"(i) to design, to test, and to promote utilization of innovative ideas and best practices in programs and services for older individuals;

"(ii) to help meet the needs for trained personnel in fields related to aging; and

"(iii) to increase the awareness of citizens of all ages of the need to assume personal responsibility for their aging through—

"(I) education and training to develop an adequately trained workforce to work with and on behalf of older individuals;

"(II) research and policy analysis to improve access to and delivery of services for older individuals;

"(III) development of methods and practices to improve quality and effectiveness of such services;

"(IV) demonstration of new approaches to design, delivery, and co-

ordination of services and activities for older individuals;

"(V) technical assistance in planning, development, implementation, evaluation, and improvement of programs, projects, and activities under this Act; and

"(VI) dissemination of information on issues related to aging and their impact on individuals and society and information relating to services and activities benefiting older individuals.

"(B) APPLICATION.—To be eligible to receive a grant or enter into a contract under this paragraph, an entity or individual shall submit an application to the Assistant Secretary at such time, in such form, and containing such information as the Secretary may by rule require.

"(4) MEASUREMENT AND EVALUATION.—

"(A) IN GENERAL.—The Assistant Secretary may provide for the measurement and evaluation of—

"(i) the impact of all activities authorized under this Act;

"(ii) the effectiveness of the activities in achieving the stated goals of the activities, in general and in relation to the cost of the activities;

"(iii) the impact of the activities on related programs;

"(iv) the effectiveness of the activities in targeting for services under this Act older individuals with the greatest economic need and older individuals with the greatest social need; and

"(v) the structure and mechanisms of the activities for delivery of services, including, where appropriate, comparisons with delivery of services to appropriate control groups, composed of persons who have not participated in such activities.

"(B) PERSONS CONDUCTING MEASUREMENT AND EVALUATION.—Measurement and evaluation of activities under subparagraph (A) shall be conducted by persons who are not immediately involved in the administration of the activities.

"(5) NATIONAL CENTER ON ELDER ABUSE.—The Assistant Secretary may provide, through grants or

contracts, for the operation of a National Center on Elder Abuse to—

"(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, identi-

fication, and treatment of elder abuse, neglect, and exploitation.

"SEC. 113. REPORTS.

"(a) IN GENERAL.—Not later than 120 days after the end of each fiscal year that begins after September 30, 1996, the Assistant Secretary shall prepare and submit to the President and to Congress a complete report on the programs, projects, and activities carried out under this Act in such fiscal year.

"(b) CONTENTS.—Such report shall include—

"(1) statistical data on services and activities provided under this Act for older individuals during the fiscal year for which such report is submitted;

"(2) statistical data collected under section 112(a)(5); and

"(3) statistical data, and an analysis of information, regarding the effectiveness of the State agencies 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.

"SEC. 114. REDUCTION OF PAPERWORK.

"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 employees of the Administration for information made under this Act and shall 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 determines to be essential to carry out the purpose and provisions of this Act and, in gathering such information, shall make use of uniform definitions and nomenclature to the extent that such definitions and nomenclature are available.

"SEC. 115. SURPLUS PROPERTY ELIGIBILITY.

"Any State or local government agency, and any nonprofit private organization or institution, that receives funds appropriated for an activity for older individuals under this Act, under title IV or XX of the Social Security Act (42 U.S.C. 601 et seq. or 1397 et seq.), under title VIII or X of the Economic Opportunity Act of 1964 (42 U.S.C. 2991 et seq. or 2996 et seq.), or under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.), shall be deemed eligible to receive for such activity, property that is declared surplus to the needs of the Federal Government in accordance with laws applicable to surplus property.

"SEC. 116. TREATMENT OF COSTS.

"No part of the costs of any activity carried out under this Act (other than any wage or salary to any eligible indi-

vidual) may be treated as income or benefits of any eligible individual for the purpose of any other activity or provision of Federal or State law.

"SEC. 117. DISASTER RELIEF.

"(a) RESERVATION OF AMOUNTS.—At the beginning of each fiscal year, the Assistant Secretary shall reserve a portion equal to .06 percent of the total amount appropriated under subsections (d) and (e) of section 122 for such fiscal year, to provide assistance to entities under this section.

"(b) ASSISTANCE.—The Assistant Secretary may provide assistance to eligible entities for the delivery of supportive services, nutrition services, and related supplies during any major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

"(c) ELIGIBLE ENTITIES.—To be eligible to receive assistance under this section, an entity shall be a recipient of funding under this Act (other than this section).

"(d) APPLICATIONS.—To be eligible to receive assistance 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.

"(e) UNUSED FUNDS.—Funds that are reserved under subsection (a) for a fiscal year and that are not distributed

by the end of the fiscal year shall be allotted to States as provided in section 121(c), for use in the following fiscal year.

"(f) CLARIFICATION.—Nothing in this section shall be construed to prohibit recipients of assistance under this section from making expenditures for disaster relief for older individuals, in excess of amounts provided under this section, by using funds made available to the recipients under another section of this Act, under another provision of Federal or State law, or from a private source.

"SEC. 118. AUTHORIZATION OF APPROPRIATIONS.

"(a) ADMINISTRATION.—There are authorized to be appropriated to the Administration to carry out this Act (except to make grants and enter into contracts under paragraph (3) or (5) of section 112(c) and to carry out section 112(a)(8)) such sums as may be necessary for fiscal years 1997 through 2001.

"(b) INNOVATIVE APPROACHES AND BEST PRACTICES; INFORMATION ON COMMUNITY RESOURCES; NATIONAL CENTER ON ELDER ABUSE.—There are authorized to be appropriated to the Administration to carry out paragraphs (3) and (5) of section 112(c) and section 112(a)(8) such sums as may be necessary for fiscal years 1997 through 2001.

"Subtitle C—Funding

"SEC. 121. ALLOTMENTS; FEDERAL SHARE.

"(a) ALLOTMENT OF FUNDS FOR OMBUDSMAN PROGRAM.—

"(1) POPULATION.—Subject to paragraph (2), in carrying out the program described in subtitle B of title II, the Assistant Secretary shall allot to each State, from the funds appropriated under section 122(a) 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.—The amounts allotted under paragraph (1) shall be reduced proportionately to the extent necessary to increase other allotments made under such paragraph to achieve the following:

"(A) STATES.—Each State shall be allotted not less than ½ of 1 percent of the funds appropriated under section 122(a) for the fiscal year for which the determination is made.

"(B) GUAM; VIRGIN ISLANDS.—Guam and the Virgin Islands of the United States shall each be allotted not less than ¼ of 1 percent of the

funds appropriated under section 122(a) for the fiscal year for which the determination is made.

"(C) AMERICAN SAMOA; NORTHERN MARIANA ISLANDS.—American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than 1/16 of 1 percent of the funds appropriated under section 122(a) for the fiscal year for which the determination is made.

"(3) LIMITATION.—For the purposes of paragraph (2), the term 'State' does not include Guam, American Samoa, the Virgin Islands of the United States, or the Commonwealth of the Northern Mariana Islands.

"(4) POPULATION DETERMINATIONS.—For purposes of this subsection, the number of older individuals in each State 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.

"(b) ALLOTMENT OF FUNDS FOR SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM.—

"(1) RESERVATION OF FUNDS FOR TRIBAL ORGANIZATIONS.—Of the amount appropriated under sec-

tion 122(b) for each of fiscal years 1997 through 2001, the Assistant Secretary shall reserve not more than 1.3 percent for making grants under subtitle C of title II to tribal organizations.

"(2) ALLOTMENT OF FUNDS FOR FISCAL YEARS 1997 THROUGH 2001.—

"(A) ALLOTMENT.—After reserving funds under paragraph (1), the Assistant Secretary shall allot the remainder of the amount appropriated under section 122(b) for each of fiscal years 1997 through 2001 among the States as follows:

"(i) FISCAL YEARS 1997 THROUGH 1999.—For each of fiscal years 1997, 1998, and 1999—

"(I) each State shall be allotted an amount equal to the product of—

"(aa) the base percentage rate for such fiscal year; and

"(bb) a sum that bears the same ratio to such remainder for such fiscal year as the amount of funds allotted to such State for fiscal year 1995 to carry out title V (as in effect on the day before

the date of enactment of the Older Americans Amendments of 1996) bears to the total amount allotted to all States for fiscal year 1995 to carry out such title; and

"(II) the balance of the remainder for such fiscal year shall be allotted in accordance with subparagraph (C).

"(ii) FISCAL YEARS 2000 AND 2001.—After reserving funds under paragraph (1), the Assistant Secretary shall allot the balance of the amount appropriated under section 122(b) for each of fiscal years 2000 and 2001 in accordance with subparagraph (C).

"(B) BASE PERCENTAGE RATES.—For purposes of subparagraph (A)(i)(I), the base percentage rates shall be the following:

"Fiscal year:	***Base percentage rate:***
1997	*60 percent*
1998	*40 percent*
1999	*20 percent.*

"(C) ALLOTMENTS BASED ON AGE AND PER CAPITA INCOME.—Each balance referred to in clauses (i)(II) and (ii) of subparagraph (A) for a fiscal year shall be allotted as follows:

"(i) ALLOTMENT.—Subject to clause (ii), each State shall be allotted an amount equal to the product of—

"(I) the allotment percentage of the State; and

"(II) a sum that bears the same ratio to such balance for such fiscal year as the number of individuals 55 years of age or older in the State bears to the population of such individuals in all States.

"(ii) REDUCTION.—The amounts allotted under clause (i) shall be reduced proportionately to the extent necessary to increase other allotments made under such clause to achieve the following:

"(I) STATES.—Each State shall be allotted not less than ½ of 1 percent of the balance for the fiscal year for which the determination is made.

"(II) OTHER JURISDICTIONS.—Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands shall each be allotted not

less than 1/4 of 1 percent of the balance for the fiscal year for which the determination is made or $50,000, whichever is greater.

"(D) ALLOTMENT PERCENTAGE.—For purposes of subparagraph (C)(i)—

"(i) except as provided in clauses (ii) through (iv), the allotment percentage of each State shall be 100 percent less the percentage that bears the same ratio to 50 percent as the per capita income of the State bears to the per capita income of all the States;

"(ii) the allotment percentage for each State shall be not more than 75 percent and not less than 33 1/3 percent;

"(iii) the allotment percentage for Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands shall be 75 percent; and

"(iv) subject to clause (ii), the allotment percentage for a State whose allotment percentage is not adjusted under clause (ii) or (iii) shall be adjusted proportionately to

the extent necessary to achieve the percentages required under such clauses.

"(E) LIMITATION.—For purposes of subparagraphs (C)(ii)(I) and (D)(i), the term 'State' does not include Guam, American Samoa, the Virgin Islands of the United States, or the Commonwealth of the Northern Mariana Islands.

"(F) POPULATION AND PER CAPITA INCOME DETERMINATIONS.—For purposes of this paragraph, the number of individuals 55 years of age or older in each State, and the per capita income of each State, 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.

"(c) ALLOTMENT OF FUNDS FOR SUPPORTIVE SERVICES AND MULTIPURPOSE SENIOR CENTERS, AND NUTRITION SERVICES.—

"(1) RESERVATION AND ALLOTMENT OF FUNDS FOR TERRITORIES.—

"(A) IN GENERAL.—After reserving funds under section 117(a) for each of fiscal years 1997 through 2001, the Assistant Secretary shall reserve not less than 0.625 percent of the remain-

der of the sum of the amounts appropriated under subsections (d) and (e) of section 122 for each of such fiscal years for making allotments to Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

"(B) ALLOTMENTS.—

"(i) GUAM; VIRGIN ISLANDS.—Guam and the Virgin Islands of the United States shall each be allotted not less than 1/4 of 1 percent of the remainder described in subparagraph (A) for each of fiscal years 1997 through 2001.

"(ii) AMERICAN SAMOA; NORTHERN MARIANA ISLANDS.—American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than 1/16 of 1 percent of the remainder described in subparagraph (A) for each of fiscal years 1997 through 2001.

"(2) ALLOTMENT OF FUNDS TO STATES.—

"(A) ALLOTMENT.—Except as provided in subparagraph (B), from the balance of the sum of the amounts appropriated under subsections (d) and (e) of section 122 for each of fiscal years

1997 through 2001 that remains after the reservations made under section 117(a) and paragraph (1), the Assistant Secretary shall allot to each State the product of—

"(i) the balance;

"(ii) the elderly in-need percentage for the State; and

"(iii) the older Americans Federal percentage for the State.

"(B) ADJUSTMENTS.—

"(i) OLDER AMERICANS FEDERAL PERCENTAGE.—For purposes of this paragraph, the older Americans Federal percentage for a State shall be not less than .32 and not more than .36.

"(ii) STATE MINIMUM.—Each State shall be allotted, under this paragraph, not less than ½ of 1 percent of the remainder described in paragraph (1)(A) for each fiscal year.

"(iii) MAINTENANCE OF FISCAL YEAR 1995 ASSISTANCE.—

"(I) HIGHER APPROPRIATION YEAR.—As used in subclause (II), the term 'higher appropriation year'

means a fiscal year for which the sum of the amounts appropriated under subsections (d) and (e) of section 122 equals or is greater than the total amount appropriated for fiscal year 1995 to carry out activities under titles III and VII, other than under section 311 or chapter 2 of subtitle A of title VII (as such titles, section, and chapter were in effect on September 30, 1994).

"(II) ALLOTMENT FOR HIGHER APPROPRIATION YEAR.—For any higher appropriation year, each State that received funds in an amount of less than $4,310,000 for fiscal year 1995 to carry out activities described in subclause (I), shall be allotted, under this paragraph, not less than such amount.

"(III) LOWER APPROPRIATION YEAR.—As used in subclause (IV), the term 'lower appropriation year' means a fiscal year that is not a higher appropriation year.

"(IV) ALLOTMENT FOR LOWER APPROPRIATION YEAR.—For any lower appropriation year, each State referred to in subclause (II) shall be allotted, under this paragraph, not less than an amount that bears the same ratio to the sum of the amounts appropriated under subsections (d) and (e) of section 122 for the fiscal year as the amount received by the State to carry out activities described in subclause (I) for fiscal year 1995 bears to the total amount received by all States to carry out such activities for fiscal year 1995.

"(iv) MAINTENANCE OF FISCAL YEAR 1997 INCREASE.—

"(I) HIGHER APPROPRIATION YEAR.—As used in subclause (II), the term 'higher appropriation year' means a fiscal year for which the sum of the amounts appropriated under subsections (d) and (e) of section 122 equals or is greater than the sum of the amounts so appropriated for fiscal year 1997.

"(II) ALLOTMENT OF HIGHER APPROPRIATION YEAR.—Each State that received a percentage increase in an allotment for fiscal year 1997 that is greater than the percentage increase in the total of the allotments made to States for fiscal year 1997 shall be allotted, under this paragraph, for each subsequent higher appropriation year, not less than the amount of the allotment received by the State under this paragraph for fiscal year 1997.

"(III) LOWER APPROPRIATION YEAR.—As used in subclause (IV), the term 'lower appropriation year' means a fiscal year subsequent to fiscal year 1997 that is not a higher appropriation year.

"(IV) ALLOTMENT FOR LOWER APPROPRIATION YEAR.—For any lower appropriation year, each State referred to in subclause (II) shall be allotted, under this paragraph, not less than an amount that bears the same ratio to the sum of the amounts appropriated

under subsections (d) and (e) of section 122 for the fiscal year as the allotment received by the State under this paragraph for fiscal year 1997 bears to the total of the allotments received by all States under this paragraph for fiscal year 1997.

"(v) CEILING.—No State may receive a larger percentage increase in an allotment for a fiscal year than the sum of—

"(I) the percentage increase in the total of the allotments made to States for the fiscal year; and

"(II) 3.75 percent.

"(vi) FLOOR.—No State may receive a smaller percentage increase in an allotment for a fiscal year than—

"(I) the percentage increase in the total of the allotments made to States for the fiscal year; minus

"(II) 4.00 percent.

"(vii) PRO RATA ADJUSTMENT.—After making the allotments described in subparagraph (A), the Assistant Secretary shall ad-

just the allotments on a pro rata basis in accordance with clauses (i) through (vi).

"(viii) PERCENTAGE INCREASE.— As used in this subparagraph, the term 'percentage increase', used with respect to the allotment of a State for a fiscal year, means the percentage by which the allotment of the State under this paragraph for the fiscal year is greater than the allotment of the State under this paragraph for the previous fiscal year.

"(3) FEDERAL SHARE REQUIREMENT.—

"(A) IN GENERAL.—A State that receives an allotment under this subsection for a fiscal year shall use funds made available through the allotment to pay for the Federal share of the cost of carrying out subtitles B and C of title III for such fiscal year.

"(B) FEDERAL SHARE.—The Federal share of the cost of carrying out such subtitles shall be not more than 85 percent.

"(C) NON-FEDERAL SHARE.—The non-Federal share of such cost shall be contributed 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.

"(d) PERMITTED USE OF ALLOTMENTS.—

"(1) ADMINISTRATION OF STATE PLANS.—

"(A) STATES.—Except as provided in subparagraph (B), an amount equal to the greater of 5 percent, or $500,000, of the aggregate of the allotments made under subsections (a) and (c) and the assistance made available under section 231 to a State for a fiscal year shall be available to the State to use for such fiscal year in accordance with section 203(a).

"(B) OTHER JURISDICTIONS.—In the case of allotments made under subsections (a) and (c) and assistance made available under section 231 to Guam, American Samoa, the Virgin Islands of the United States, or the Commonwealth of the Northern Mariana Islands, an amount equal to the greater of 5 percent, or $100,000, of the aggregate of such allotments and assistance for a fiscal year shall be available to the State to use for such fiscal year in accordance with section 203(a).

"(2) APPLICATION TO USE ADDITIONAL FUNDS.—

"(A) DETERMINATION.—If a State submits an application in which the State requests permission to use additional funds, above the amount that would otherwise be permitted under paragraph (1), from the aggregate of the allotments and assistance described in subparagraph (A) or (B), as appropriate, of paragraph (1) in accordance with section 203(a), the Assistant Secretary may approve the application if the Assistant Secretary determines, based on a particularized showing of need, that—

"(i) the State will be unable to fully and effectively administer the State plan of the State submitted under section 202 and to carry out programs, projects, and activities authorized under subtitles B and D of title II, and subtitles B and C of title III, unless the additional funds are made available by the Assistant Secretary;

"(ii) the State is making full and effective use of the allotments and assistance described in subparagraph (A) or (B), as appropriate, of paragraph (1) and of the personnel of the State agency and area agencies on aging in the administration of the

State plan in accordance with section 203(a); and

"(iii) the State agency and area agencies on aging are carrying out, on a full-time basis, programs, projects, and activities that are in furtherance of the objectives of subtitles B and D of title II and subtitles B and C of title III.

"(B) PART OF ADDITIONAL FUNDS.—Subject to subparagraph (C), the Assistant Secretary may approve such use of any part of the additional funds requested in such application that the Assistant Secretary determines is justified in such application.

"(C) LIMIT ON AMOUNT.—The additional funds available under this paragraph to a particular State for such use for any fiscal year may not exceed ¾ of 1 percent of the aggregate of the allotments and assistance described in subparagraph (A) or (B), as appropriate, of paragraph (1) that are provided to the State for such fiscal year.

"(D) ASSURANCES.—

"(i) IN GENERAL.—The Assistant Secretary may not approve an application sub-

mitted under subparagraph (A) by a State unless the application contains the assurance described in clause (ii).

"(ii) PROHIBITION ON REPLACEMENT OF EMPLOYEES WITH PARTICIPANTS SUPPORTED UNDER THIS ACT.—The application shall contain an assurance that the State will not use any funds made available under this paragraph for the use described in subparagraph (A) to hire any individual to fill a job opening created by an action of the State that consists of laying off or terminating the employment of any regular employee not supported under this Act in anticipation of filling the job opening so created by hiring a participant to be supported through use of such funds.

"(3) ADDITIONAL USE.—Of the amount that is made available to a State through allotments made under subsections (a) and (c) and assistance made available under section 231 for a fiscal year and that remains after the application of paragraphs (1) and (2), such part as the State agency determines to be appropriate, but not more than 10 percent of such remaining amount, may be used to pay such percentage

as the State agency determines to be appropriate, but not more than 85 percent, of the administrative costs incurred to carry out area plans submitted in accordance with section 302.

"(4) OMBUDSMAN PROGRAM.—Of the amount that is made available to a State for supportive services (including services to support multipurpose senior centers) through an allotment made under subsection (c) for a fiscal year and that remains after the application of paragraphs (1), (2), and (3), such amount as the State agency determines to be adequate for conducting an effective ombudsman program in accordance with subtitle B of title II shall be available for conducting such program.

"(e) REALLOTMENT.—If any part of the amount allotted under a subsection of this section to a State for a fiscal year is not distributed to the State for such fiscal year, such part shall be reallotted under such subsection for such fiscal year to the remaining eligible States.

"(f) DEFINITIONS.—For purposes of subsection (c):

"(1) ELDERLY IN-NEED PERCENTAGE.—

"(A) PERCENTAGE.—The term 'elderly in-need percentage', used with respect to a State, means the sum of—

"(i) the product of—

"(I) 0.65; and

"(II) the number of individuals who are age 60 or older in the State divided by the number of such individuals in all States;

"(ii) the product of—

"(I) 0.03; and

"(II) the number of individuals who are ages 70 through 74 in the State divided by the number of such individuals in all States;

"(iii) the product of—

"(I) 0.08; and

"(II) the number of individuals who are ages 75 through 79 in the State divided by the number of such individuals in all States;

"(iv) the product of—

"(I) 0.09; and

"(II) the number of individuals who are ages 80 through 84 in the State divided by the number of such individuals in all States; and

"(v) the product of—

"(I) 0.15; and

"(II) the number of individuals who are age 85 or older in the State divided by the number of such individuals in all States.

"(B) RULE.—For purposes of this paragraph, the Assistant Secretary shall determine the number of individuals in a State on the basis of the most recent data available from the Bureau of the Census.

"(2) OLDER AMERICANS FEDERAL PERCENTAGE.—The term 'older Americans Federal percentage', used with respect to a State, means the result obtained by subtracting from 1 the product of—

"(A) 0.65; and

"(B) the result obtained by dividing the total taxable resources percentage for the State by the elderly in-need percentage for the State.

"(3) STATE.—The term 'State' means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(4) TOTAL TAXABLE RESOURCES PERCENTAGE.—

"(A) PERCENTAGE.—The term 'total taxable resources percentage'—

"(i) used with respect to a State other than the District of Columbia, means the total taxable resources of the State divided by the total taxable resources of all States; and

"(ii) used with respect to the District of Columbia, means the total personal income of the District divided by the total personal income of all States.

"(B) DEFINITIONS.—As used in this paragraph:

"(i) TOTAL PERSONAL INCOME.—The term 'total personal income', used with respect to a State, means the most recent 3-year arithmetic mean of the total personal income of the State, as determined by the Director of the Bureau of Economic Analysis of the Department of Commerce.

"(ii) TOTAL TAXABLE RESOURCES.—The term 'total taxable resources', used with respect to a State, means the most recent 3-year arithmetic mean of the total taxable resources of the State, as determined by the Secretary of the Treasury.

"SEC. 122. AUTHORIZATION OF APPROPRIATIONS.

"(a) STATE LONG-TERM CARE OMBUDSMAN PROGRAM.—There are authorized to be appropriated to carry out subtitle B of title II, such sums as may be necessary for fiscal years 1997 through 2001.

"(b) SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM.—There are authorized to be appropriated to carry out subtitle C of title II, such sums as may be necessary for fiscal years 1997 through 2001.

"(c) DISEASE PREVENTION AND HEALTH PROMOTION.—There are authorized to be appropriated to carry out subtitle D of title II, such sums as may be necessary for fiscal years 1997 through 2001.

"(d) SUPPORTIVE SERVICES AND SENIOR CENTERS.—There are authorized to be appropriated to carry out subtitle B of title III, such sums as may be necessary for fiscal years 1997 through 2001.

"(e) NUTRITION SERVICES.—There are authorized to be appropriated to carry out subtitle C of title III, such sums as may be necessary for fiscal years 1997 through 2001.

"(f) PROGRAM YEAR AND EXTENSIONS.—

"(1) PROGRAM YEAR.—Amounts appropriated under subsection (b) for any fiscal year shall be used during the annual period that—

"(A) begins on July 1 of the calendar year immediately following the beginning of such fiscal year; and

"(B) ends on June 30 of the following calendar year.

"(2) EXTENSIONS.—If, in accordance with section 121(e), any part of an allotment is reallotted to a State for a fiscal year, such part shall be considered to be a portion of the appropriate allotment of the State for the fiscal year, but shall remain available for obligation for the State until the end of the succeeding fiscal year.

"SEC. 123. ADDITIONAL FUNDS AVAILABLE FOR NUTRITION SERVICES.

"(a) FUNDS AVAILABLE.—There are authorized to be appropriated to the Secretary of Agriculture (in addition to the amount appropriated to the Secretary of Health and Human Services under section 122(e)) to provide nutrition services under subtitle C of title III $156,625,000 for fiscal year 1997 and such sums as may be necessary for fiscal years 1998 through 2001.

"(b) DIVISION OF FUNDS.—The Secretary of Agriculture shall divide the funds that are made available under subsection (a) so that—

"(1) 98.9 percent of such funds is allotted to States in accordance with subsection (c) to provide nutrition services under subtitle C of title III; and

"(2) the balance is available to make grants under title IV to provide nutrition services.

"(c) ALLOTMENT.—In providing funds for nutrition services under subsection (b)(1) for a fiscal year, the Secretary of Agriculture shall determine a per meal rate equal to the amount appropriated under subsection (a) for the fiscal year, divided by the number of meals served in the preceding fiscal year. The Secretary of Agriculture shall allot to each State, for the fiscal year for which the determination is made, the product of the per meal rate and the number of meals served in the State in the preceding fiscal year.

"(d) RECEIPT OF COMMODITIES IN LIEU OF CASH.—A State or area agency on aging that receives funds allotted under subsection (b)(1), or a recipient of a grant referred to in subsection (b)(2), may elect to enter into an agreement with the Secretary of Agriculture to purchase commodities with all or part of such funds or of the funds made available through such grant, through authorities including section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c), section 416 of the Agricultural

Act of 1949 (7 U.S.C. 1431), and section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a–1).

"TITLE II—STATE PROGRAMS ON AGING

"Subtitle A—General Provisions

"SEC. 201. ELIGIBILITY OF STATES.

"(a) ELIGIBILITY OF STATES.—For a State to be eligible for grants from the allotment made for the State under subsection (a) or (c) of section 121, or assistance available under section 123 or 231—

"(1) the State shall, in accordance with rules issued by the 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 202;

"(B) administer the State plan within the State;

"(C) be responsible for the planning, policy development, administration, coordination, priority setting, and evaluation of all activities specified in the State plan and related to carrying out subtitles B, C, and D, and subtitles B and C of title III;

"(D) serve as an effective and visible advocate for older individuals by reviewing and commenting on all State plans, budgets, and policies that affect older individuals, and provide technical assistance to any agency, organization, or association representing the needs of older individuals; and

"(E) except as provided in subsection (c)—

"(i) divide the State into distinct planning and service areas, after considering—

"(I) the geographical distribution of older individuals in the State;

"(II) the incidence of the need for supportive services (including services to support multipurpose senior centers) and nutrition services;

"(III) the distribution of older individuals who have the greatest economic need or the greatest social need, with attention to the distribution of older individuals who are low-income minority individuals;

"(IV) the distribution of resources available to provide the services and centers described in subclause (II);

"(V) the boundaries of existing (as of the date of the division) planning and service areas within the State;

"(VI) the characteristics of the local government within the State; and

"(VII) other relevant factors; or

"(ii) designate the entire State as a single planning and service area; and

"(2) the State agency shall—

"(A) designate an area agency on aging for each planning and service area;

"(B) take into account in the development and administration of the State plan for any fiscal year, the views of—

"(i) recipients of services through the State long-term care ombudsman program, community service employment, supportive services, nutrition services, or disease prevention and health promotion services and information, as the case may be, provided under such plan; and

"(ii) individuals using multipurpose senior centers provided under such plan;

"(C) after consultation with area agencies on aging and using the best available data, de-

velop and publish for review and comment a formula for distribution within the State of funds received to carry out subtitles B and C of title III 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; and

"(D) provide an assurance that the State will give preference, in providing services under subtitles B and C, and subtitles B and C of title III, to older individuals with greatest economic need and older individuals with greatest social need, with particular attention to low-income minority individuals, and include in the State plan proposed methods of carrying out the preference.

"(b) DUE PROCESS.—

"(1) IN GENERAL.—A State agency shall establish and publish, after consultation with area agencies on aging, procedures that the State agency shall follow to provide due process to affected parties if the State agency initiates an action or proceeding to

change the designation of any designated planning and service area or of any designated area agency on aging.

"(2) PROCEDURES.—At a minimum, such procedures shall include procedures for—

"(A) providing notice of an action to change the designation of a designated planning and service area or of a designated area agency on aging;

"(B) providing documentation of the need for such action; and

"(C) at the request of the area agency on aging involved, conducting a public hearing concerning such action.

"(c) GRANDFATHER PROVISION.—

"(1) ADDITIONAL DESIGNATIONS.—A State that on or before October 1, 1980, had designated, with the approval of the Commissioner on Aging, 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 such date designate in accordance with subsection (a)(1)(E) one or more additional planning and service areas within the State to be administered by an area agency on aging.

"(2) STATE FUNCTIONS.—The State agency shall continue to perform the functions of an area agency on aging for any remaining area of the State not included in a planning and service area for which an area agency on aging has been designated.

"(d) INTERSTATE PLANNING AND SERVICE AREAS.—The chief executive officer of each State that contains a region of an interstate geographic area or of an interstate Indian reservation, may apply to the Assistant Secretary to request redesignation of the geographic area or reservation as an interstate planning and service area. If the Assistant Secretary approves the application, the Assistant Secretary shall adjust the allotment of each State containing a region of the interstate planning and service area, to reflect the number of older individuals within the region.

"(e) NONDESIGNATION OF INDIAN RESERVATIONS.—If a State declines to designate an Indian reservation as a planning and service area, the Indian tribe residing on the reservation may appeal the decision of the State to the Assistant Secretary. The Assistant Secretary may order the State to designate the Indian reservation as a planning and service area as a condition of receiving funding under this Act.

"SEC. 202. STATE PLANS.

"(a) PLAN.—For a State to be eligible for grants from the allotment made for the State under subsection (a), (b), or (c) of section 121, or assistance available under section 123 or 231, for any fiscal year, the State shall prepare and submit to the Assistant Secretary a State plan, which incorporates input from area agencies on aging in the State, for a 2-, 3-, or 4-year period determined by the State agency, with such annual revisions as are necessary. Each such plan shall comply with all of the following requirements:

"(1) UNIFORM AREA PLAN FORMAT.—The plan shall contain assurances that the State plan is based on area plans developed by area agencies on aging within the State and that the State has prepared and distributed a uniform format for use by area agencies on aging in developing area plans under section 302.

"(2) APPROVAL OF AREA PLAN.—The plan shall provide that each such area agency on aging has prepared, developed, and submitted to the State agency for approval an area plan that complies with section 302.

"(3) HEARINGS.—The plan shall provide that the State agency will establish a grievance procedure that will afford an opportunity for a hearing on request to any area agency on aging submitting a plan under section 302, to any provider of a service under

such a plan, or to any applicant to provide a service under such a plan. The State agency shall establish and publish the procedures for requesting and conducting such hearing.

"(4) FISCAL CONTROL AND FUND ACCOUNTING; CONFLICTS OF INTEREST.—

"(A) FISCAL CONTROL AND FUND ACCOUNTING PROCEDURES.—The plan shall provide an assurance that the State will adopt such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, funds made available through allotments made under subsections (a), (b), and (c) of section 121, and assistance made available under sections 123 and 231, to the State, including any such funds or assistance paid to the recipients of a grant or contract with the State.

"(B) CONFLICTS OF INTEREST.—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 in the State, or in the designation of the head of the State agency, the head of such an

area agency on aging, or the head of any subdivision of the State agency or of such 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 in the State is subject to a conflict of interest prohibited under this Act; and

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

"(C) INTEGRITY; PUBLIC PURPOSE; ENHANCEMENT.—The plan shall provide assurances that the State agency and each area agency on aging in the State will—

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

"(ii) demonstrate that the quantity or quality of the services to be provided under

the State plan will be enhanced as a result of such contract or such relationship.

"(5) INFORMATION AND ASSISTANCE SERVICES.—

"(A) IN GENERAL.—It shall be a primary responsibility of the State agency to ensure that the plan provides for establishing and maintaining information and assistance services in sufficient numbers to ensure, to the maximum extent practicable, that all older individuals in the State who are not furnished adequate information and assistance services under section 302(a)(3) will have reasonably convenient access to such services.

"(B) INSURANCE BENEFITS AND PUBLIC BENEFITS.—The plan shall contain an assurance that each area agency on aging in the State, in providing information and assistance services—

"(i) will carry out a program for provision of outreach, counseling, and assistance to aid older individuals in obtaining insurance benefits and public benefits; and

"(ii) will expend, to carry out the program, a specific percentage, stated in the State plan, of the agency's share of funds

made available under section 122(d) and allotted to the State under section 121(c).

"(6) LIMITATIONS.—

"(A) PROHIBITION ON DIRECT PROVISION OF SERVICES.—Except as provided in subparagraphs (B) and (C) and section 302(c)(3), the plan shall provide that no supportive services or nutrition services, including home-delivered services, will be directly provided by the State agency or an area agency on aging.

"(B) ADMINISTRATIVE EXCEPTIONS.—Subparagraph (A) shall not apply when, in the judgment of the State agency—

"(i) the provision of services described in subparagraph (A) by the State agency or an area agency on aging is necessary to ensure an adequate supply of such services;

"(ii) such services are directly related to the administrative functions of the State agency or area agency on aging; or

"(iii) such services of comparable quality can be provided more economically by the State agency or area agency on aging.

"(C) EXCEPTION FOR CERTAIN SERVICES.—Subparagraph (A) shall not apply with respect

to information and assistance services, case management services, and outreach.

"(7) STATE LONG-TERM CARE OMBUDSMAN PROGRAM.—The plan shall provide assurances that the State agency will carry out a State long-term care ombudsman program that complies with all the requirements specified in subtitle B.

"(8) LEGAL ASSISTANCE.—The plan shall contain assurances, with respect to legal assistance, that each area agency on aging in the State will—

"(A) expend, for the delivery of legal assistance, a specific percentage, stated in the State plan, of the agency's share of funds made available under section 122(d) and allotted to the State under section 121(c); and

"(B)(i) enter into contracts with providers of legal assistance that can demonstrate the experience or capacity to deliver legal assistance; and

"(ii) attempt to involve private attorneys in legal assistance activities authorized under subtitle B of title III, including groups of private attorneys who are furnishing services to older individuals on a pro bono basis or on a reduced fee basis.

"(9) PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION.—Whenever the State desires to provide for programs for the prevention of elder abuse, neglect, and exploitation for a fiscal year, the plan shall—

"(A) contain an assurance that each area agency on aging in the State will expend, to carry out a program for the prevention of elder abuse, neglect, and exploitation, a specific percentage, stated in the State plan, of the agency's share of funds made available under section 122(d) and allotted to the State under section 121(c);

"(B) contain an assurance that the State has in effect laws relating to elder abuse, neglect, and exploitation that include provisions for immunity for persons who report instances of elder abuse, neglect, and exploitation, from prosecution under any State or local law arising out of such reporting;

"(C) contain an assurance that individuals who provide services to prevent elder abuse, neglect, and exploitation are trained to effectively deal with such reported instances;

"(D) contain an assurance that involuntary or coerced participation in such programs by alleged victims, alleged abusers, or members of the households of alleged victims or alleged abusers will not be permitted;

"(E) contain an assurance that the State requires that all information gathered in the course of receiving reports on instances of, and of making referrals relating to, elder abuse, neglect, and exploitation remain confidential except—

"(i) if all parties to the complaint that is the subject of the report or referral 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;

"(F) contain an assurance that the State agency will make all reasonable efforts to resolve any conflicts with other public agencies with re-

spect to the confidentiality of the information described in subparagraph (E);

"(G) contain an assurance that the State agency will coordinate the State programs for the prevention of elder abuse, neglect, and exploitation with—

"(i) law enforcement officials;

"(ii) courts of competent jurisdiction; and

"(iii) entities carrying out other relevant State and local programs, including—

"(I) area agencies on aging; and

"(II) agencies that, collectively, administer adult protective services, 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)), and victim assistance programs, and State agencies responsible for surveys and certification under section 1919(g) of the Social Security Act (42 U.S.C. 1396r(g));

"(H) contain an assurance that older individuals participate in decisions regarding their welfare under the programs for the prevention of elder abuse, neglect, and exploitation; and

"(I) specify other activities that the State agency determines to be beneficial in the prevention of elder abuse, neglect, and exploitation, and intends to carry out under such programs.

"(10) OUTREACH.—The plan shall contain assurances that the State agency will require outreach efforts that will—

"(A) identify individuals eligible for assistance under subtitle B or C, or under subtitle B or C of title III, with special emphasis on—

"(i) older individuals residing in rural areas;

"(ii) older individuals with greatest economic need;

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

"(iv) older individuals with severe disabilities;

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

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

"(vii) low-income minority older individuals; and

"(B) inform the older individuals referred to in clauses (i) through (vii) of subparagraph (A), and the caretakers of such individuals, of the availability of such assistance.

"(11) INDIVIDUALS WITH DISABILITIES.—The plan shall provide, with respect to the needs of individuals with disabilities, assurances that the State agency will coordinate planning, identification, assessment of needs, and services for 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).

"(12) COORDINATION OF COMMUNITY-BASED LONG-TERM CARE SERVICES.—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 302(a)(5)(E), 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 are able to return to their homes if community-based services are provided to the individuals.

"(13) PROHIBITION ON MISUSE OF FUNDS.—The plan shall provide assurances that funds received from allotments made under subsections (a), (b), and (c) of section 121, and assistance made available under sections 123 and 231, will not be used to pay any part of a cost (including an administrative cost) incurred by the State or an area agency on aging to carry out a contract or commercial arrangement that is not carried out to implement subtitle B, C, or D, or subtitle B or C of title III.

"(14) COORDINATION OF SERVICES; PROVISION OF MULTIGENERATIONAL SERVICES.—The plan shall provide assurances that the State will make demonstrable efforts—

"(A) to coordinate services provided under subtitles B, C, and D, and subtitles B and C of title III, 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 programs that, collectively, provide child care, youth day care, educational assistance, at-risk youth intervention, juvenile delinquency treatment, and family support.

"(15) QUALITY ASSURANCE.—The plan shall include assurances that the State has in effect a mechanism to provide for quality in the provision of services under subtitles B, C, and D, and subtitles B and C of title III.

"(16) COST SHARING.—If the State, after consultation with area agencies on aging and service providers, elects to require cost sharing by recipients of services under the State plan (or to require or permit area agencies on aging to require cost sharing by recipients of services under area plans), the plan shall—

"(A) provide that no cost sharing shall be required for information and assistance services,

outreach, benefits counseling, case management services, or ombudsman or other protective services;

"(B) exempt from cost-sharing requirements low-income individuals, or individuals with incomes that are less than 150 percent of the poverty line;

"(C) set cost-sharing rates for individuals subject to the requirements, on a sliding-fee scale based on income;

"(D) provide that the income of older individuals will be determined by self-declaration;

"(E) provide that the confidentiality of individual information related to such cost sharing will be maintained at all times; and

"(F) provide that no older individual will be denied a service under the plan because of inability to pay.

"(17) SOLICITATION OF VOLUNTARY CONTRIBUTIONS.—The plan shall provide that the State will permit area agencies on aging to permit service providers to solicit, for services provided under the plan, voluntary contributions—

"(A) in amounts that are based on the ability of older individuals to make such contributions; and

"(B) that will be used to increase, or expand access to, services provided under the plan.

"(b) APPROVAL OF STATE PLAN.—The Assistant Secretary shall approve any State plan that fulfills the requirements of subsection (a).

"(c) DISAPPROVAL OF STATE PLAN.—

"(1) DETERMINATION FOLLOWING DUE PROCESS.—The Assistant Secretary shall not make a final determination disapproving any State plan, or any revision of a State plan, or make a final determination that a State is ineligible under section 201, without first affording the State reasonable notice and a hearing.

"(2) WITHHOLDING OF ASSISTANCE.—

"(A) IN GENERAL.—If the Assistant Secretary makes a determination, in accordance with paragraph (1), disapproving a State plan the Assistant Secretary shall withhold from the State assistance allotted under subsections (a), (b), and (c) of section 121, and assistance available under sections 123 and 231, for the fiscal year for which such plan is submitted.

"(B) DISBURSAL.—

"(i) ENTITY.—The Assistant Secretary shall disburse the assistance withheld under subparagraph (A) directly to a public or nonprofit private agency, organization, or institution, or political subdivision of the State, that submits and obtains approval of a plan described in clause (ii).

"(ii) PLAN.—The plan referred to in clause (i) shall be submitted and approved in accordance with subsections (a) and (b).

"(iii) AUTHORITIES AND REQUIREMENTS.—The Secretary shall issue regulations specifying authorities and requirements applicable to States under this Act, including the limitation specified in section 121(c)(3), that shall apply with respect to the use of such funds by the agency, organization, institution, or political subdivision that receives such funds.

"(3) REVIEW BY SECRETARY.—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 appeals such final determination in a timely

manner in accordance with subsection (e)(1), the Secretary shall dismiss the appeal filed under this paragraph.

"(4) APPELLATE REVIEW OF DECISION BY SECRETARY.—

"(A) IN GENERAL.—If the State is dissatisfied with the decision of the Secretary after review under paragraph (3), the State may appeal such decision in a timely manner under subsection (e)(1).

"(B) CONSTRUCTION.—For purposes of appellate review in accordance with subparagraph (A), a reference in subsection (e) to the Assistant Secretary shall be deemed to be a reference to the Secretary.

"(d) NOTIFICATION OF STATE OF INELIGIBILITY OR NONCOMPLIANCE.—

"(1) IN GENERAL.—

"(A) FINDING.—The Assistant Secretary shall make the notification described in subparagraph (B) if the Assistant Secretary, after providing reasonable notice and an opportunity for a hearing to the State agency, finds that—

"(i) the State is not eligible under section 201;

"(ii) the State plan has been so revised that the plan no longer complies substantially with any provision of subsection (a); or

"(iii) in the administration of the plan there is a failure to comply substantially with any provision of subsection (a).

"(B) NOTIFICATION.—

"(i) IN GENERAL.—On making the finding described in subparagraph (A), the Assistant Secretary shall notify the State agency that no further assistance will be provided to the State from the allotment of the State under subsection (a), (b), or (c) of section 121, or under section 123 or 231, as appropriate (or, in the discretion of the Assistant Secretary, that further assistance to the State under such subsection or section will be limited to projects under the State plan that are not affected by the noncompliance that is the basis for the finding), until the Assistant Secretary is satisfied that there will no longer be any ineligibility or failure to comply.

"(ii) WITHHOLDING OF ASSISTANCE.—Until the Assistant Secretary is so satisfied, no further assistance shall be provided to the State from the allotment of the State under subsection (a), (b), or (c) of section 121, or under section 123 or 231, as appropriate (or, in the discretion of the Assistant Secretary, further assistance to the State under such subsection or section shall be limited to projects described in clause (i) and the remainder of the assistance available for allotment to the State under such subsection or available to the State under such section shall be withheld).

"(2) USE OF WITHHELD ASSISTANCE.—

"(A) ELIGIBLE ORGANIZATIONS.—The Assistant Secretary shall, in accordance with rules the Secretary shall issue, disburse the assistance withheld under paragraph (1)(B)(ii) directly to a public or nonprofit private agency, organization, or institution, or political subdivision of the State, that submits and obtains approval of a plan in accordance with the provisions of subsections (a) and (b).

"(B) AUTHORITIES AND REQUIREMENTS.—The Secretary shall issue regulations specifying authorities and requirements applicable to States under this Act, including the limitation specified in section 121(c)(3), that shall apply with respect to the use of such funds by the agency, organization, institution, or political subdivision that receives such funds.

"(e) APPEAL.—

"(1) IN GENERAL.—A State that is dissatisfied with a final action of the Assistant Secretary under subsection (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 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 shall file in the court the record of the proceedings on which the action of the Assistant Secretary is based, as provided in section 2112 of title 28, United States Code.

"(2) PROCEDURE.—

"(A) JURISDICTION.—

"(i) IN GENERAL.—Except as provided in clause (ii), on the filing of such petition, the court shall have jurisdiction to affirm the order issued by the Assistant Secretary with respect to the action or to set the order aside, in whole or in part, temporarily or permanently.

"(ii) ACTION OF ASSISTANT SECRETARY.—Until the filing of the record, the Assistant Secretary may modify or set aside the order of the Assistant Secretary.

"(B) EVIDENCE.—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 the proceedings to obtain such further evidence. The new or modified findings of fact resulting from the proceedings shall likewise be conclusive if supported by substantial evidence.

"(C) REVIEW.—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 on certiorari or certification as provided in section 1254 of title 28, United States Code.

"(3) NO STAY.—The commencement of proceedings under this subsection shall not operate as a stay of the action of the Assistant Secretary, unless such a stay is specifically ordered by the court.

"(f) PRESERVATION OF ATTORNEY-CLIENT PRIVILEGE.—Neither a State, nor a State agency, may require any provider of legal assistance under subtitle B of title III to reveal any information that is protected by the attorney-client privilege.

"SEC. 203. PLANNING, COORDINATION, EVALUATION, AND ADMINISTRATION OF STATE PLANS.

"(a) GRANTS FOR STATE ACTIVITIES.—

"(1) COST OF ADMINISTRATION OF STATE PLAN.—Amounts available to a State under paragraph (1) or (2) of section 121(d) may be used to make a grant to the State to pay such percentage as the State agency determines, but not more than 85 percent, of the cost of the administration of the State plan of the State, including—

"(A) the preparation of the State plan;

"(B) the evaluation of activities carried out under such plan;

"(C) the collection of data and the carrying out of analyses related to the need for supportive services (including services to support multipurpose senior centers), and nutrition services (taking into consideration the comparative need for home-delivered nutrition services, congregate nutrition services, and adult day care nutrition services), within the State, and dissemination of information obtained through the data collection and analyses;

"(D) the provision of short-term training to personnel of public or nonprofit private agencies, organizations, and institutions engaged in the operation of programs, projects, and activities authorized by subtitles B and D, and subtitles B and C of title III; and

"(E) the carrying out of demonstration projects of statewide significance relating to the initiation, expansion, or improvement of services and activities provided under subtitles B and D, and subtitles B and C of title III.

"(2) COST OF ADMINISTRATION OF AREA PLANS.—The portion of the assistance made available under section 121(d)(1) to a State for any fiscal year, that the State determines will not be required by the

State for such year for the purposes described in paragraph (1), may be used by the State to supplement the amount available under section 121(d)(3) to cover part of the cost of the administration of area plans.

"(3) USE OF FUNDS NOT NEEDED FOR ADMINISTRATION OF STATE PLAN.—The portion of the assistance made available under section 121(d)(1) to a State for any fiscal year, that the State determines will not be required by the State for such year for the purposes described in paragraph (1), may be used by the State to provide services under subtitle B or D, or subtitle B or C of title III, in the State.

"(4) SINGLE PLANNING AND SERVICE AREAS.—Any State that is designated, under section 201(a)(1)(E) or 201(c), as a single planning and service area covering all, or substantially all, of the older individuals in the 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 the amount of funds available under paragraph (1) or (2) of section 121(d) or out of the amount of funds made available for the administration of area plans under section 121(d)(3), but shall not pay such costs from both such amounts.

"(b) AUTHORITY TO TRANSFER FUNDS.—

"(1) TRANSFERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of this subtitle or title III and except as provided in subparagraph (B), using the sums received by a State attributable to funds appropriated under subsection (d) or (e) of section 122, as appropriate, the State (after consultation with area agencies on aging and with service providers) may elect to transfer not more than 25 percent of such sums for any fiscal year between programs under subtitle B of title III and programs under subtitle C of title III, for use as the State considers appropriate. The State shall notify the Assistant Secretary of any such election.

"(B) WAIVER.—If a State submits an application to the Assistant Secretary in which the State demonstrates, to the satisfaction of the Assistant Secretary, that funds received by the State and attributable to funds appropriated under subsection (d) or (e) of section 122 (including funds transferred under subparagraph (A) without regard to this subparagraph) for any fiscal year are insufficient to satisfy the

need for services under subtitle B or C of title III, as appropriate, the Assistant Secretary may grant a waiver that permits the State to transfer, under subparagraph (A) to satisfy such need, an additional 25 percent of the funds so received for such fiscal year.

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

"(2) DELEGATION OF AUTHORITY TO MAKE TRANSFERS.—After consultation with service providers, a State agency may delegate to an area agency on aging or any other entity the authority to make a transfer under paragraph (1).

"(3) DATA COLLECTION.—The Assistant Secretary shall annually collect, and include in the report required by section 113, data regarding the transfers described in paragraph (1), including—

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

"(B) the effect of the transfers on the provision of services provided under—

"(i) subtitle B of title III; and

"(ii) subtitle C of title III, including the effect on the number of meals served.

"SEC. 204. PAYMENTS.

"Payments provided through grants made, or contracts entered into, under subtitle B, C, or D, or subtitle B or C of title III, may be provided (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 to be appropriate.

"Subtitle B—State Long-Term Care Ombudsman Program

"SEC. 211. ESTABLISHMENT.

"(a) IN GENERAL.—With funds allotted under section 121(a), the Assistant Secretary shall make grants to eligible States to carry out long-term care ombudsman programs.

"(b) OFFICE AND PROGRAM.—In order to be eligible to receive a grant under subsection (a), a State shall—

"(1) establish and operate an Office of the State Long-Term Care Ombudsman (referred to in this subtitle as the 'Office'); and

"(2) carry out through the Office a State long-term care ombudsman program.

"(c) OMBUDSMAN.—The Office shall be headed by an individual, to be known as the State Long-Term Care Ombudsman (referred to in this subtitle as the 'Ombudsman'), who shall be selected from among individuals with expertise and experience in the fields of long-term care and advocacy.

"SEC. 212. REQUIREMENTS FOR STATE LONG-TERM CARE OMBUDSMAN PROGRAM.

"(a) DUTIES.—The Ombudsman shall serve on a full-time basis, and shall, personally or through representatives of the Office—

"(1) identify, investigate, and resolve complaints that—

"(A) are made by, or on behalf of, older individuals who are residents of long-term care facilities (referred to individually in this section as a 'resident'); and

"(B) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of such residents (including the welfare and rights of such residents with respect

to the appointment and activities of guardians and representative payees), by providers (or representatives of providers) of long-term care services, public agencies, or health and social service agencies;

"(2) provide services to protect the health, safety, welfare, and rights of such residents;

"(3) inform such residents about the means of obtaining—

"(A) services provided by providers or agencies described in paragraph (1)(B); or

"(B) identification, investigation, and resolution services described in paragraph (1);

"(4) ensure that such residents have regular and timely access to the services provided through the State long-term care ombudsman program and that residents and complainants on behalf of residents (referred to individually in this section as a 'complainant') receive timely responses to their complaints from representatives of the State long-term care ombudsman program (referred to individually in this section as a 'program representative');

"(5) represent the interests of such residents before governmental agencies and seek administrative,

legal, and other remedies to protect the health, safety, welfare, and rights of such residents;

"(6) provide administrative and technical assistance to entities designated under subsection (c) to assist the entities in participating in the program;

"(7)(A) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, rules, and other government 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; and

"(B) recommend such changes in such laws, rules, policies, and actions as the Ombudsman determines to be appropriate;

"(8) provide for training for program representatives of the Office;

"(9) collect information, as specified by the Assistant Secretary, on the total number of such residents in the State and the number of complaints described in paragraph (1) received by the State, analyzed by type of facility (such as a nursing home or board and care facility); and

"(10) carry out such other activities as the State agency determines to be appropriate.

"(b) CONTRACTS AND ARRANGEMENTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the State agency may establish and operate the Office, and carry out the program, directly or by contract or other arrangement with any public or nonprofit private organization, agency, or institution.

"(2) INELIGIBLE ENTITIES.—The State agency may not enter into a contract or other arrangement described in paragraph (1) with—

"(A) an agency or organization that is responsible for licensing or certifying long-term care services in the State; or

"(B) an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals.

"(c) DESIGNATION OF LOCAL OMBUDSMAN ENTITIES AND REPRESENTATIVES.—

"(1) DESIGNATION.—In carrying out the duties specified in subsection (a), the Ombudsman may designate an entity as a local Ombudsman entity, and may designate an individual (including an employee or volunteer) to represent the entity.

"(2) ELIGIBILITY FOR DESIGNATION.—Entities eligible to be designated as local Ombudsman entities,

and individuals eligible to be designated as representatives of such entities, shall—

"(A) have demonstrated capability to carry out the responsibilities of the Office;

"(B) be free of conflicts of interest;

"(C) in the case of the entities, be public or nonprofit private entities; and

"(D) meet such additional requirements as the Ombudsman may specify.

"(3) AUTHORITIES OF LOCAL OMBUDSMAN.—An individual so designated may, in accordance with the policies and procedures established by the Office and the State agency—

"(A) provide services to protect the health, safety, welfare, and rights of residents;

"(B) ensure that residents in the planning and service area of the entity have regular, timely access to representatives of the State long-term care ombudsman program and timely responses to complaints and requests for assistance;

"(C) identify, investigate, and resolve complaints made by or on behalf of such residents that relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of such residents;

"(D) represent the interests of such residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of such residents;

"(E)(i) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, rules, and other government 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; and

(ii) recommend such changes in such laws, rules, policies, and actions as the individual determines to be appropriate;

"(F) facilitate the ability of the public to comment on such laws, rules, policies, and actions;

"(G) support the development of resident and family councils; and

"(H) carry out such other activities as the Ombudsman determines to be appropriate.

"(4) MONITORING POLICIES AND PROCEDURES.—

"(A) 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 specified in subsection (a) and their representatives.

"(B) CONSULTATION AND COMMENT.—If the entities are grant recipients, or the representatives are employees, of area agencies on aging, the State agency shall develop the policies and procedures after consultation with the area agencies on aging. The policies and procedures shall provide for participation and comment by such agencies and for resolution of concerns with respect to case activity.

"(C) CONFIDENTIALITY AND CONFLICT OF INTEREST.—The State agency shall develop the policies and procedures, in accordance with all provisions of subtitle A, this subtitle, and title III, regarding confidentiality and conflict of interest.

"(d) PROCEDURES FOR ACCESS.—The State shall ensure, and shall establish procedures that ensure, that a program representative of the Office shall have—

"(1) access to long-term care facilities and residents;

"(2)(A) appropriate access to review the medical and social records of a resident, if the representative

has the permission of the resident (or the legal representative of the resident), or the resident is unable to consent to the review and has no legal representative; or

"(B) such access to such records as is necessary to investigate a complaint, as determined by the State, if—

"(i) a legal guardian of the resident refuses to give the permission;

"(ii) a program 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 program representative obtains the approval of the Ombudsman;

"(3) 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

"(4) access to and, on request, copies of all licensing and certification records maintained by the State with respect to long-term care facilities.

"(e) DATA COLLECTION AND REPORTING.—The State agency shall—

"(1) collect and analyze data relating to complaints regarding, and conditions in, long-term care facilities, and to residents, for the purpose of identifying and resolving significant problems;

"(2) document the program operations and outreach activities of the State long-term care ombudsman program; and

"(3) submit to the Assistant Secretary and other State agencies, and make available to the public, annual reports containing the data and documentation specified in paragraphs (1) and (2).

"(f) DISCLOSURE.—

"(1) ESTABLISHMENT OF PROCEDURES.—The State agency shall establish procedures for the disclosure by the Ombudsman or local Ombudsman entities of files maintained by the State long-term care ombudsman program, including records, policies, documents, and data described in subsections (d) and (e).

"(2) DISCLOSURE ONLY AT DISCRETION OF OMBUDSMAN.—The procedures described in paragraph (1) shall provide that, subject to paragraph (3), the files described in paragraph (1) may be disclosed only at the discretion of the Ombudsman.

"(3) NONDISCLOSURE OF IDENTITY.—The procedures described in paragraph (1) shall prohibit the

disclosure of the identity of any complainant, or resident of a long-term care facility, with respect to whom the Office maintains such files, unless—

"(A) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;

"(B) the complainant or resident gives consent orally and the consent is documented contemporaneously in writing made by a program representative of the Office in accordance with such requirements as the State agency shall establish; or

"(C) the disclosure is required by court order.

"(g) CONSULTATION.—In planning and operating the State long-term care ombudsman program, the State agency shall consider the views of area agencies on aging, older individuals, and providers of long-term care.

"(h) 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 (c), 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.

"(i) LEGAL COUNSEL.—The State agency shall ensure that—

"(1)(A) adequate legal counsel is available and able to provide advice and consultation needed to protect the health, safety, welfare, and rights of residents, and to assist the Ombudsman and the program representatives of the Office in the performance of the official duties of the Ombudsman and representatives; and

"(B) legal representation is provided to any program 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 of-

ficial duties of the Ombudsman or such a representative; and

"(2) the Office pursues administrative, legal, and other appropriate remedies on behalf of residents.

"(j) LIABILITY.—The State shall ensure that no program representative of the Office shall be liable under State law for the good faith performance of official duties described in this Act.

"(k) NONINTERFERENCE.—The State shall—

"(1) ensure that willful interference with the representatives of the Office in the performance of official duties under the State long-term care ombudsman program 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.

"Subtitle C—Senior Community Service Employment Program

"SEC. 221. SHORT TITLE.

"This subtitle may be cited as the 'Older American Community Service Employment Act'.

"SEC. 222. DEFINITIONS.

"As used in this subtitle:

"(1) ADMINISTRATIVE COSTS.—The term 'administrative costs', used with respect to a project, means—

"(A) the costs of—

"(i) salaries, wages, and fringe benefits for project administrators;

"(ii) consumable office supplies used by project staff;

"(iii) development, preparation, presentation, management, and evaluation of the project;

"(iv) establishment and maintenance of accounting and management information systems;

"(v) establishment and maintenance of advisory councils;

"(vi) travel of the project administrators;

"(vii) rent, utilities, custodial services, and indirect costs attributable to the project;

"(viii) training of staff and technical assistance to subproject sponsor staff;

"(ix) equipment and material for use by project staff; or

"(x) audit services; and

"(B) the costs and expenses described in paragraph (3)(B).

"(2) COMMUNITY SERVICE EMPLOYMENT.—The term 'community service employment' means employment described in section 223(a)(1).

"(3) OTHER PARTICIPANT COSTS.—

"(A) IN GENERAL.—The term 'other participant costs' includes—

"(i) the costs for participants of—

"(I) transportation;

"(II) training, including training described in section 223(d)(9); and

"(III) special job or personal counseling; and

"(ii) incidental expenses necessary for the participation of the participants, such

as workshoes, safety eyeglasses, uniforms, tools, and similar items.

"(B) EXCLUSION.—The term shall not include—

"(i) the costs of performing assessments, including the assessment described in section 223(d)(11);

"(ii) administrative expenses relating to the training of participants;

"(iii) the costs of providing counseling to participants;

"(iv) the costs of providing supportive services to participants;

"(v) transportation costs incurred in training;

"(vi) the costs of evaluating participants for continued participation in employment in a project described in this subtitle; or

"(vii) the costs of developing host agency assignments and unsubsidized employment for participants.

"(4) PLACED IN UNSUBSIDIZED EMPLOYMENT.—

"(A) IN GENERAL.—The term 'placed in unsubsidized employment' means, with respect to

an individual who was a participant in a project described in this subtitle, that—

"(i)(I) the individual was placed in a position with an employer not later than 90 days after the individual terminated participation in the project, and the position was not subsidized with Federal funds; and

"(II) the placement was attributable to participation in the project;

"(ii) the employer intended, on the date of the placement, to employ the individual in the position for not less than 90 days;

"(iii) the individual was still employed in the position 30 days after the placement; and

"(iv) the individual was better off economically when employed in the position than the individual was when participating in the project.

"(B) BETTER OFF ECONOMICALLY.—As used in this paragraph, the term 'better off economically', used with respect to an individual, means an individual who was a participant in a

project described in this subtitle and was placed in a position of employment if—

"(i) the individual received greater income for employment in the position than for participation in the project;

"(ii) the individual received greater benefits (as defined by the State in which the project is located) for employment in the position than for participation in the project; or

"(iii) the position met 2 or more of the following criteria:

"(I) The position provided to the individual 20 or more hours of employment per week and a wage that is not less than the minimum wage determined in accordance with section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

"(II) The position was consistent with the individual development plan for the individual.

"(III) The position provided free housing to the individual.

"(IV) The position provided free food or meals to the individual.

"(V) The position provided health benefits to the individual.

"(VI) The position provided free transportation, or transportation at a reduced cost, to the individual.

"(VII) The position provided to the individual such economic benefits, other than the benefits described in subclauses (I) through (VI), as the State in which the project was located determined to be appropriate.

"(5) SMALL STATE.—The term 'small State' means—

"(A) a State whose allotment under section 121 is increased as a result of the condition specified in section 121(b)(2)(C)(ii)(I); and

"(B) a State referred to in section 121(b)(2)(C)(ii)(II).

"SEC. 223. SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM.

"(a) AUTHORITY FOR PROGRAM.—

"(1) GRANTS.—With funds allotted under section 121(b), the Assistant Secretary shall make grants to

eligible States and tribal organizations for the purpose of providing, to unemployed low-income older individuals who have poor employment prospects (as determined in accordance with standards issued by the States and organizations), part-time employment opportunities providing community services (including providing services for a business, to the extent permitted by subsection (b)(3).

"(2) USE OF FUNDS.—

"(A) WAGES AND BENEFITS.—

"(i) IN GENERAL.—Except as provided in clause (ii) or subparagraph (C) or (D), not less than 90 percent of the funds made available through a grant made under paragraph (1) shall be used to pay wages and benefits for older individuals who are employed under projects carried out under this subtitle.

"(ii) SMALL STATES.—Except as provided in subparagraph (C) or (D), not less than 85 percent of the funds made available through a grant made under paragraph (1) to a small State shall be used to pay wages and benefits for older individuals who are

employed under projects carried out under this subtitle.

"(B) ADMINISTRATIVE COSTS.—

"(i) IN GENERAL.—Except as provided in clause (ii), not more than 10 percent of the funds made available through a grant made under paragraph (1) may be used to pay for administrative costs.

"(ii) SMALL STATES.—Not more than 15 percent of the funds made available through a grant made under paragraph (1) to a small State may be used to pay for administrative costs.

"(C) OTHER PARTICIPANT COSTS; PROJECTS CARRIED OUT DIRECTLY.—

"(i) IN GENERAL.—A State or tribal organization that receives a grant under paragraph (1) for a project and that elects to carry out the project directly, or through an agreement under subsection (b) with a political subdivision, may request that the Assistant Secretary provide for a fiscal year—

"(I) a general waiver of subparagraph (A); or

"(II) the general waiver and an additional waiver of subparagraph (A).

"(ii) REQUEST.—

"(I) IN GENERAL.—The State or tribal organization shall submit such a request at such time, in such form, and containing such information as the Assistant Secretary may require by rule.

"(II) INFORMATION FOR ADDITIONAL WAIVER.—Except as provided in subclause (III), a State or tribal organization that requests such an additional waiver for a fiscal year shall submit with the request information demonstrating that at least 30 percent of the participants in the projects carried out through a grant made under paragraph (1) for the previous year to the State or organization were placed in unsubsidized employment.

"(III) WAIVER.—The Assistant Secretary may elect to waive the requirement described in subclause (II) for tribal organizations serving Native

American populations in which the unemployment rate (as determined by the Secretary of Labor for the most recent 12-month period for which data are available, prior to the fiscal year for which the determination is made) exceeds 50 percent.

"(iii) APPROVAL.—If the Assistant Secretary determines that the State or tribal organization has submitted a request that meets the requirements of clause (ii), the Assistant Secretary shall approve the request.

"(iv) GENERAL WAIVER.—A general waiver referred to in this subparagraph shall permit a State or tribal organization to use—

"(I) not less than 80 percent of the funds made available through the grant for the fiscal year for which the waiver is requested to pay wages and benefits described in subparagraph (A)(i);

"(II) not more than 10 percent (or not more than 15 percent in the

case of a small State) of such funds to pay for administrative costs; and

"(III) the remaining portion of such funds to pay for other participant costs.

"(v) ADDITIONAL WAIVER.—A State or tribal organization that receives a general waiver and an additional waiver referred to in this subparagraph may use—

"(I) not less than 75 percent of the funds made available through the grant for the fiscal year for which the waiver is requested to pay wages and benefits described in subparagraph (A)(i);

"(II) not more than 10 percent (or not more than 15 percent in the case of a small State) of such funds to pay for administrative costs; and

"(III) the remaining portion of such funds to pay for other participant costs.

"(D) OTHER PARTICIPANT COSTS; PROJECTS CARRIED OUT UNDER AGREEMENTS.—

"(i) IN GENERAL.—An entity, other than a State or tribal organization that receives a grant under subsection (a), or a political subdivision, that carries out a project under a grant made under paragraph (1) may request that the State or tribal organization that received the grant provide for a fiscal year—

"(I) a general waiver of subparagraph (A); and

"(II) an additional waiver of subparagraph (A).

"(ii) APPLICATION OF PROVISIONS.—The provisions of clauses (ii) through (v) of subparagraph (C) shall apply to such requests and such general and additional waivers, as appropriate, except that references in such provisions—

"(I) to a State or tribal organization shall be deemed to be references to the entity referred to in clause (i); and

"(II) to the Assistant Secretary shall be deemed to be references to the State or tribal organization that re-

ceived the grant referred to in clause (i).

"(E) NON-FEDERAL SOURCES.—To the maximum extent practicable, an entity that carries out a project under this subtitle shall provide for the payment of the costs described in subparagraph (B), (C), or (D) from non-Federal sources.

"(b) ELIGIBILITY FOR GRANTS.—

"(1) APPLICATION AND AGREEMENTS.—To be eligible to receive a grant under subsection (a), a State or tribal organization shall submit to the Assistant Secretary an annual application at such time, in such form, and containing such information as the Assistant Secretary may require by rule, including an assurance that funds made available through such grant—

"(A) will be used by the State or tribal organization to carry out projects for the purpose specified in subsection (a)(1)—

"(i) directly (in accordance with the requirements of subsection (d)); or

"(ii) through agreements that satisfy the requirements of this subsection and subsection (d); and

"(B) will not be used to carry out a project involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship.

"(2) PARTICIPANTS IN AGREEMENT.—Such agreements shall be entered into by the State or tribal organization with—

"(A) public or nonprofit private agencies or organizations;

"(B) political subdivisions of States having elected or duly appointed governing officials (or combinations of such political subdivisions);

"(C) tribal organizations; and

"(D) area agencies on aging.

"(3) AGREEMENTS WITH BUSINESSES.—At the election of a State or tribal organization that receives a grant made under subsection (a), not more than 5 percent of the funds made available through the grant may be used to enter into agreements with businesses (giving special consideration to businesses in growth industries) to pay for not more than 50 percent of the cost of providing part-time employment (including arranging for the provision of part-time employment) to older individuals described in subsection (a)(1).

"(c) COMPETITIVE BASIS.—In selecting an entity with whom a State or tribal organization will enter into an agreement under subsection (b), the State or organization—

"(1) shall make the selection on a competitive basis; and

"(2) shall take into consideration, where appropriate, the demonstrated ability of the entity to provide employment (including arranging for the provision of employment) to older individuals as described in subsection (a)(1).

"(d) REQUIREMENTS.—

"(1) IN GENERAL.—Each agreement entered into under subsection (b) for a project shall provide that no payment shall be made by the State or tribal organization toward the cost of such project unless the State or tribal organization determines that such project, or the entity that carries out such project, as appropriate, will satisfy each of the conditions described in paragraphs (2) through (13). Each State or tribal organization that carries out a project directly under subsection (b) shall ensure that such project or the State or organization, as appropriate, will satisfy each of the conditions described in paragraphs (2) through (13).

"(2) FEDERAL SHARE REQUIREMENT.—

"(A) IN GENERAL.—The entity that carries out the project shall use funds received for such project that are made available through a grant made under subsection (a) to pay for the Federal share of the cost of the project.

"(B) FEDERAL SHARE.—The Federal share of the cost of the project shall be not more than 85 percent (or not more than 50 percent in the case of a project carried out under an agreement described in subsection (b)(3)).

"(C) NON-FEDERAL SHARE.—The non-Federal share of such cost shall be contributed 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.

"(3) PERSONNEL.—The project shall provide employment only for older individuals described in subsection (a)(1), except for necessary technical, administrative, and supervisory personnel. Such personnel shall, to the fullest extent possible, be recruited from among older individuals described in subsection (a)(1).

"(4) COMMUNITIES.—

"(A) IN GENERAL.—If such project is carried out by or under an agreement with a State, the project shall provide employment for such individuals in the community in which such individuals reside, or in nearby communities.

"(B) RESERVATIONS.—If such project is carried out by a tribal organization that receives a grant under subsection (a), or enters into an agreement under subsection (b) with a State that receives a grant under subsection (a), the project shall provide employment for such individuals 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)).

"(5) SERVICES.—The project (except a project carried out under an agreement described in subsection (b)(3)) shall employ older individuals described in subsection (a)(1) in positions in which the individuals provide services—

"(A) related to publicly owned and operated facilities or public projects; or

"(B) related to projects sponsored by organizations described in section 501(c)(3) of the In-

ternal Revenue Code of 1986 that are exempt from taxation under section 501(a) of such Code.

"(6) GENERAL WELFARE.—The project shall contribute to the general welfare of the community in which the project is carried out.

"(7) EMPLOYMENT IMPACTS.—The project shall—

"(A) result in an increase in employment opportunities over the opportunities that would otherwise be available;

"(B) not result in the displacement (including partial displacement, such as a reduction in the hours of nonovertime work or wages or employment benefits) of currently employed workers (as of the date of the beginning of the project); and

"(C) not impair existing contracts (as of the date of the beginning of the project) or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed.

"(8) RECRUITMENT AND SELECTION.—In carrying out the project, the entity shall utilize methods of recruitment and selection (including listing job vacancies with an employment agency operated by any

State or political subdivision of a State) that will ensure that the maximum number of older individuals described in subsection (a)(1) will have an opportunity to participate in the project.

"(9) TRAINING.—The project shall include such training as may be necessary to make the most effective use of the skills and talents of such individuals who are participating in the project and assist in their transition into employment for which no financial assistance is provided under this subtitle.

"(10) ADVICE.—The entity shall establish or administer the project after receiving the advice of—

"(A) individuals competent in the field of service in which the project will provide employment; and

"(B) individuals who are knowledgeable with regard to the needs of older individuals.

"(11) ASSESSMENT.—The entity shall prepare an assessment of—

"(A) the skills and talents of each participating older individual;

"(B) the need of the older individual for supportive services; and

"(C) the ability of the older individual to perform community service employment; except

to the extent that the project has an assessment of such skills and talents, such need, or such ability, of the individual that was prepared recently pursuant to another Federal or State employment or job training program.

"(12) NOTICE AND EXPLANATION.—The entity that carries out such project shall post in the project workplace a notice, and shall make available to each individual 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.

"(13) PRIORITY IN EMPLOYMENT OPPORTUNITIES.—In providing employment opportunities (including arranging for the provision of employment opportunities) under the project, such entity shall give priority to low-income older individuals described in subsection (a)(1) who are 60 years of age or older.

"(e) PREREQUISITE DETERMINATIONS AND COORDINATION.—

"(1) DETERMINATIONS.—To effectively carry out subsection (b), a State or tribal organization that receives a grant under subsection (a) for a fiscal year

shall, after consultation with the appropriate area agencies on aging and with other organizations that received funds under this subtitle in the preceding fiscal year—

"(A) make a determination identifying the localities in the State (or on an Indian reservation if a tribal organization receives such a grant or enters into an agreement with a State that receives such a grant), in which projects described in subsection (b) are most needed;

"(B) in making such determination, consider the local employment situations and the types of skills possessed by available local older individuals described in subsection (a)(1); and

"(C) make a determination identifying potential projects for, and the number and percentage of such individuals in the local population of, each such locality.

"(2) COORDINATION.—To increase employment opportunities available to older individuals, the State or tribal organization shall coordinate the projects assisted under this subtitle with—

"(A) other programs, projects, and activities carried out under this Act; and

"(B) other Federal or State employment or job training programs.

"(3) PARTICIPANTS.—To the maximum extent practicable, the State or tribal organization shall ensure that entities that carry out projects under this subtitle provide employment (including arranging for the provision of employment) under this subtitle to older individuals who on the day before the effective date of section 3 of the Older Americans Amendments of 1996 were participants under an agreement entered into under section 502(b) (as in effect on the day before such date).

"(f) EQUITABLE USE OF FUNDS.—To the maximum extent practicable, the State or tribal organization shall use funds available for this subtitle to enter into agreements under subsection (b), or carry out this subtitle, in an equitable manner, taking into consideration the number of eligible older individuals in the various geographical areas served under the agreements or by the State or organization and the relative distribution of such individuals among urban and rural areas.

"(g) PRIOR SUBMISSION OF PROJECT DESCRIPTION.—If an entity carries out a project under this subtitle in a planning and service area, and the entity is not the area agency on aging for the planning and service area, the en-

tity shall carry out the project in consultation with the area agency on aging and shall submit to the area agency on aging, not less than 30 days before undertaking the project, a description (including the location) of such project.

"(h) ALTERNATIVE WORK MODES; TECHNICAL ASSISTANCE.—To assist entities carrying out, and participants in, projects assisted under this subtitle, the State or tribal organization may develop alternatives for innovative work modes and provide technical assistance in creating job opportunities through work sharing and other experimental methods to groups representing business and industry, and workers, as well as to individual employers, where appropriate.

"(i) REPORT.—If a State or tribal organization elects under subsection (b) to enter into agreements described in paragraph (3) of such subsection for a fiscal year, the State or tribal organization shall submit to the Assistant Secretary a report describing the projects carried out under such agreements.

"(j) DATA COLLECTION AND ANALYSIS.—A State or tribal organization that receives a grant under subsection (a) for a project shall use a portion of the funds available for administrative costs, as described in subsection (a)(2)(B)—

"(1) to collect data and carry out analyses related to the need for community service employment within the population served under the grant; and

"(2) to disseminate information obtained through the data collection and analyses.

"(k) RULES.—The Secretary shall issue, and amend from time to time, rules that require States and tribal organizations that receive grants under subsection (a) to establish, to the maximum extent practicable, for projects carried out under this subtitle the goal of annually placing not less than 20 percent of project participants in employment for which no financial assistance is provided under this subtitle.

"SEC. 224. PARTICIPANTS NOT FEDERAL EMPLOYEES.

"(a) PROJECT PARTICIPANTS.—Older individuals described in section 223(a)(1) who participate in a project assisted under this subtitle shall not be considered to be Federal employees as a result of such participation and shall not be subject to the provisions of part III of title 5, United States Code.

"(b) WORKMEN'S COMPENSATION.—No State or tribal organization shall enter into an agreement under section 223(b) with, or carry out such a project through, an entity who is, or whose employees are, under State law, exempted from the operation of the State workmen's compensation

law, generally applicable to employees, unless the entity undertakes to provide either through insurance by a recognized carrier, or by self-insurance, as authorized by State law, that the individuals employed under the contract shall enjoy workmen's compensation coverage equal to such coverage provided by law for covered employment.

"SEC. 225. EMPLOYMENT ASSISTANCE AND FEDERAL HOUSING AND FOOD STAMP PROGRAMS.

"Funds received by eligible individuals from projects carried out under this subtitle 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 (7 U.S.C. 2011 et seq.).

"Subtitle D—Disease Prevention and Health Promotion Program

"SEC. 231. ESTABLISHMENT OF GRANT PROGRAM.

"(a) AUTHORITY.—The Assistant Secretary shall carry out a program for making grants to States, to enable the States to assist eligible area agencies on aging to provide disease prevention and health promotion services and information at multipurpose senior centers, at congregate meal sites, through home-delivered meal programs, or at other appropriate sites. In carrying out such program, the Assistant

Secretary shall consult with the Director of the Centers for Disease Control and Prevention and the Director of the National Institute on Aging.

"(b) SERVICES.—Each State, in consultation with the Assistant Secretary, shall determine the services to be provided as disease prevention and health promotion services in the State under this subtitle. The State may not include services for which payment may be made under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

"(c) USE OF SERVICES.—Each State, to the extent possible, shall assure that area agencies on aging use services provided by other community organizations and agencies in carrying out the provisions of this subtitle.

"SEC. 232. DISTRIBUTION TO AREA AGENCIES ON AGING.

"The State agency shall give priority, in assisting area agencies on aging under this subtitle, to agencies serving areas of the State—

"(1) that are medically underserved; and

"(2) in which there are large numbers of older individuals with greatest economic need who are in need of services described in section 231.

"TITLE III—LOCAL PROGRAMS ON AGING

"Subtitle A—General Provisions

"SEC. 301. ELIGIBILITY OF LOCAL ORGANIZATIONS.

"(a) DESIGNATION OF AREA AGENCIES ON AGING.—An area agency on aging designated under section 201(a)—

"(1) shall be—

"(A) an established office of aging;

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

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

"(D) any public or nonprofit private agency in a planning and service area, or any separate organizational unit within such agency, that is under the supervision or direction for such purpose of the designated State agency and that can and will engage only in the planning or provision of a broad range of supportive serv-

ices, or of nutrition services, within the planning and service area; or

"(E) in the case of a State designated under section 201(a)(1)(E) as a single planning and service area, the State agency; and

"(2) shall provide an assurance, determined to be adequate by the State agency, that the area agency on aging will have the ability to develop an area plan in accordance with section 302 and to carry out, directly or through contractual or other arrangements, a program in accordance with the plan within the planning and service area.

"(b) PREFERENCE.—In designating an area agency on aging within the planning and service area, including 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.

"SEC. 302. AREA PLANS.

"(a) PLAN.—To be eligible for designation as an area agency on aging in a State, an entity shall prepare, develop, and submit to the State agency an area plan for a planning and service area for a 2-, 3-, or 4-year period determined by the State agency, with such annual revisions

as may be necessary. Each such plan shall be based on a uniform format for area plans within the State. Each such plan shall comply with all of the following requirements:

"(1) SCOPE OF PLAN.—The plan shall provide, through a comprehensive and coordinated system, for—

"(A) supportive services (including, where appropriate, services to support the establishment or maintenance of multipurpose senior centers), nutrition services (including home-delivered nutrition services and congregate nutrition services), within the planning and service area covered by the plan;

"(B) determining the extent of need for supportive services (including services to support multipurpose senior centers), and nutrition services (taking into consideration the comparative need for home-delivered nutrition services, congregate nutrition services, and adult day care nutrition services), in such area (taking into consideration, among other things, the number of low-income older individuals residing in such area, the number of older individuals with greatest economic need residing in such area, the number of older individuals with greatest social

need residing in such area, the number of older individuals who are Indians residing in such area, and the efforts of voluntary organizations in such area);

"(C) evaluating the effectiveness of the use of resources in meeting such need; and

"(D) entering into agreements with providers of supportive services (including services to support multipurpose senior centers) and nutrition services in such area, for the provision of such services or centers to meet such need.

"(2) PROMOTION OF INDEPENDENT LIVING.—The plan shall promote independent living through the use of home- and community-based care for older individuals, address the nutrition and health promotion needs of older individuals, provide advocacy for and protect the rights of vulnerable older individuals in both community-based and institutional settings, specify efforts to be undertaken to ensure the quality of supportive services and nutrition services provided in such settings, enhance access to services provided under the plan, and encourage community participation in carrying out the plan.

"(3) INFORMATION AND ASSISTANCE SERVICES.—The plan shall provide for the establishment and

maintenance of information and assistance services to ensure that older individuals within the planning and service area covered by the plan will have reasonably convenient access to services provided under the plan, with particular emphasis on linking services available to—

"(A) isolated older individuals; and

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

"(4) SPECIFIC OBJECTIVES; OUTREACH.—

"(A) OBJECTIVES.—The plan shall contain an assurance that the area agency on aging will set specific objectives for providing services to older individuals with greatest economic need, older individuals with greatest social need, and older individuals residing in rural areas.

"(B) OUTREACH.—The plan shall contain assurances that the area agency on aging will use outreach efforts that will—

"(i) identify individuals eligible for assistance under subtitle B or C, with special emphasis on—

"(I) older individuals residing in rural areas;

"(II) older individuals with greatest economic need;

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

"(IV) older individuals with severe disabilities;

"(V) older individuals with limited-English speaking ability;

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

"(VII) low-income minority older individuals; and

"(ii) inform the older individuals referred to in subclauses (I) through (VII) of clause (i), and the caretakers of such individuals, of the availability of such assistance.

"(5) EVALUATIONS; TECHNICAL ASSISTANCE AND INFORMATION; ADVOCACY; ADVISORY COUNCIL.—The plan shall provide that the area agency on aging will—

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

"(B) 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 the plan;

"(C) serve as the advocate and focal point for older individuals within communities in the planning and service area by (in cooperation with agencies, organizations, institutions, and individuals participating in activities under the plan) monitoring, evaluating, and commenting on all policies, programs, hearings, levies, and community actions within the area that will affect older individuals;

"(D) establish an advisory council consisting of older individuals who are participants or

who are eligible to participate in programs carried out 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) facilitate the coordination of community-based, long-term care services for older individuals designed to—

"(i) retain individuals in their homes, deferring unnecessary, costly institutionalization; and

"(ii) include the development of case management services as a component of the long-term care services;

"(F) facilitate the involvement of long-term care providers in the coordination of community-based long-term care services for older individuals and work to ensure community awareness of, and involvement in, addressing the needs of residents of long-term care facilities;

"(G) coordinate services and activities carried out under the area plan with—

"(i) activities of community-based organizations, established for the benefit of older individuals with Alzheimer's disease or related disorders and with neurological or organic brain dysfunction (and the families of such individuals); and

"(ii) the mental health services provided by community health centers and by other public and nonprofit private agencies, organizations, and institutions; and

"(H) establish a grievance procedure for older individuals who are dissatisfied with services provided, or who are denied services, under subtitle B or C.

"(6) VOLUNTEERS.—The plan shall demonstrate that the area agency on aging will encourage, and enlist the services of, local volunteer groups to provide assistance and services appropriate to the unique needs of older individuals within the planning and service area.

"(7) PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION.—Whenever the State desires to provide for programs for the prevention of elder

abuse, neglect, and exploitation for a fiscal year, the plan shall—

"(A) contain an assurance that the area agency on aging will conduct such a program in a manner consistent with the provisions of this Act;

"(B) contain an assurance that the area agency on aging will provide public education and outreach to identify and prevent elder abuse, neglect, and exploitation;

"(C) contain an assurance that the area agency on aging—

"(i) will establish procedures for receipt of reports of elder abuse, neglect, and exploitation; and

"(ii) on receipt of a report of a known or suspected instance of abuse, neglect, or exploitation of an older individual, will promptly refer the reported matter to the proper authorities for investigation and action consistent with State law; and

"(D) specify other activities that the area agency—

"(i) determines to be beneficial in the prevention of elder abuse, neglect, and exploitation; and

"(ii) intends to carry out under such program.

"(8) DESCRIPTION OF ACTIVITIES.—The plan shall—

"(A) describe all activities of the area agency on aging for which financial assistance is provided to carry out subtitles B and C, and subtitle D of title II; and

"(B) contain an assurance that such activities conform with—

"(i) the responsibilities of the area agency on aging, as set forth in this subsection; and

"(ii) the laws, rules, and policies of the State in which the area agency on aging is carrying out an area plan.

"(9) DISCLOSURE OF SOURCES AND EXPENDITURES OF FUNDS.—The plan shall contain an assurance that the area agency on aging will, on the request of the State and 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 assistance to older individuals.

"(10) PROHIBITION ON MISUSE OF FUNDS.—The plan shall provide assurances that funds received from allotments made under section 121(c) and assistance made available under sections 123 and 231 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 arrangement that is not carried out to implement subtitle B or C, or subtitle D of title II.

"(11) CASE MANAGEMENT SERVICES.—The plan shall 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);

"(C) include the provision, to consumers, of a list of available service providers for appropriate care in the planning and service area served by the agency;

"(D) be provided in a manner that gives a consumer the right to choose a provider of preference; and

"(E) be provided by—

"(i) a public agency; or

"(ii) a nonprofit private agency that—

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

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

"(III) is a community-based organization described in section 223(d)(5)(B), and is located in a planning and service area for which the area agency on aging contracted with a nonprofit private agency to provide case management services in fiscal year 1992.

"(12) COST SHARING.—The plan shall contain an assurance that any requirements for cost sharing by recipients of services provided under the plan will be consistent with the provisions of the State plan that satisfy the requirement specified in section 202(a)(16).

"(b) PRESERVATION OF ATTORNEY-CLIENT PRIVILEGE.—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.

"(c) STATE AUTHORITY TO WITHHOLD ASSISTANCE.—

"(1) FAILURE TO COMPLY.—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), rules, or policies, the State may withhold from the area agency on aging a portion of the assistance available under the allotment made under section 121(c) and of the assistance available under sections 123 and 231.

"(2) DUE PROCESS.—

"(A) IN GENERAL.—The head of the State agency shall not withhold assistance under paragraph (1) without first affording the area agency

on aging due process in accordance with procedures established by the State agency.

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

"(i) providing notice of an action to withhold assistance;

"(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 such action.

"(3) DIRECT ADMINISTRATION OF PROGRAMS.—

"(A) IN GENERAL.—If the State agency withholds the assistance under paragraphs (1) and (2), the State agency may use the assistance withheld to directly administer programs under subtitle B or C, or subtitle D of title II, in the planning and service area served by the area agency on aging for a period of not to exceed 180 days, except as provided in subparagraph (B).

"(B) EXTENSION OF PERIOD.—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 subpara-

graph (A), the State agency may extend the period until the area agency on aging takes satisfactory corrective action, but not for longer than 1 year. If, at the end of the 1-year extension, the area agency on aging has not taken satisfactory corrective action, the State shall designate a new area agency on aging to serve the planning and service area.

"SEC. 303. SERVICES PROVIDED BY CHARITABLE, RELIGIOUS, OR PRIVATE ORGANIZATIONS.

"(a) IN GENERAL.—

"(1) STATE OPTIONS.—Notwithstanding any other provision of law, a State may—

"(A) administer and provide services under a program described in paragraph (2)(A) through grants or contracts with charitable, religious, or private organizations; and

"(B) provide beneficiaries of assistance under a program described in paragraph (2)(B) with certificates, vouchers, or other forms of disbursement that are redeemable with such organizations.

"(2) PROGRAM DESCRIBED.—The program described in this paragraph is a program funded under this Act that—

"(A) permits grants or contracts with organizations; or

"(B) permits certificates, vouchers, or other forms of disbursement to be provided to beneficiaries as a means of providing assistance.

"(b) RELIGIOUS ORGANIZATIONS.—The purpose of this section is to allow religious organizations to receive a grant, to contract, or to accept certificates, vouchers, or other forms of disbursement under any program described in subsection (a)(2), on the same basis as any other provider without impairing the religious character of such organizations, and without diminishing the religious freedom of beneficiaries of assistance funded under such program.

"(c) NONDISCRIMINATION AGAINST RELIGIOUS ORGANIZATIONS.—Religious organizations are eligible, on the same basis as any other private organization, as grant recipients or contractors to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, under any program described in subsection (a)(2) so long as the programs are implemented in a manner consistent with the Establishment Clause of the first amendment to the Constitution. Neither the Federal Government nor a State receiving funds under such programs shall discriminate against an organization that is or applies to be a grant recipient or contractor to provide assistance, or that accepts

certificates, vouchers, or other forms of disbursement, on the basis that the organization has a religious character.

"(d) RELIGIOUS CHARACTER AND FREEDOM.—

"(1) RELIGIOUS ORGANIZATIONS.—Notwithstanding any other provision of law, any religious organization with a grant or contract referred to in subsection (a)(1)(A), or that accepts certificates, vouchers, or other forms of disbursement referred to in subsection (a)(1)(B), shall retain its independence from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its religious beliefs.

"(2) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State shall require a religious organization to—

"(A) alter its form of internal governance; or

"(B) remove religious art, icons, scripture, or other symbols;

in order to be eligible to receive a grant or contract to provide assistance, or to accept certificates, vouchers, or other forms of disbursement, funded under a program described in subsection (a)(2).

"(e) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—

"(1) IN GENERAL.—If an individual described in paragraph (2) has an objection to the religious character of the organization from which the individual receives, or would receive, assistance funded under any program described in subsection (a)(2), the State in which the individual resides shall provide to such individual (if otherwise eligible for such assistance) from an alternative provider assistance the value of which is not less than the value of the assistance that the individual would have received from such organization.

"(2) INDIVIDUAL DESCRIBED.—An individual described in this paragraph is an individual who receives, applies for, or requests to apply for, assistance under a program described in subsection (a)(2).

"(f) NONDISCRIMINATION IN EMPLOYMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), nothing in this section shall be construed to modify or affect the provisions of any other Federal or State law or regulation that relates to discrimination in employment on the basis of religion.

"(2) EXCEPTION.—A religious organization with a grant or contract referred to in subsection (a)(1)(A), or that accepts certificates, vouchers, or other forms of disbursement referred to in subsection

(a)(1)(B), may require that an employee rendering service pursuant to such grant or contract, or pursuant to the organization's acceptance of certificates, vouchers, or other forms of disbursement adhere to—

"(A) the religious tenets and teachings of such organization; and

"(B) any rules of the organization regarding the use of drugs or alcohol.

"(g) NONDISCRIMINATION AGAINST BENEFICIARIES.—Except as otherwise provided in law, a religious organization shall not discriminate against an individual in regard to rendering assistance funded under any program described in subsection (a)(2) on the basis of religion, a religious belief, or refusal to actively participate in a religious practice.

"(h) FISCAL ACCOUNTABILITY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any religious organization receiving a grant or contracting to provide assistance funded under any program described in subsection (a)(2) shall be subject to the same regulations as other grant recipients or contractors to account in accord with generally accepted auditing principles for the use of such funds provided under such programs.

"(2) LIMITED AUDIT.—If such organization segregates Federal funds provided under such programs into separate accounts, only the Federal funds provided to the organization shall be subject to audit.

"(i) COMPLIANCE.—A religious organization that has its rights under this section violated may enforce its claim exclusively by asserting a civil action for such relief as may be appropriate, including injunctive relief or damages, in an appropriate State court against the entity or agency that allegedly commits such violation.

"(j) LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.—

"(1) IN GENERAL.—No funds provided directly to organizations (including funds provided through a grant or contract) to provide services and administer programs funded under this Act shall be expended for sectarian worship or instruction.

"(2) EXCEPTION.—Paragraph (1) shall not apply to financial assistance provided to or on behalf of beneficiaries of assistance in the form of certificates, vouchers, or other forms of disbursement, if such beneficiary may choose where such assistance shall be redeemed.

"Subtitle B—Supportive Services and Senior Centers

"SEC. 311. PROGRAM AUTHORIZED.

"The Assistant Secretary shall carry out a program for making grants to States, under State plans approved under section 202, to enable the States to assist eligible area agencies on aging in carrying out through grants and contracts with eligible entities any of the following supportive services that are necessary for the general welfare of older individuals:

"(1) Health (including mental health), education and training, welfare, informational, recreational, homemaker, counseling, or referral services.

"(2) Services (including information and assistance services) designed to encourage and assist older individuals to use the facilities and services available to the individuals, including language translation services to assist older individuals with limited-English speaking ability to obtain services under this subtitle.

"(3) 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 residences in conformity with minimum housing standards;

"(B) to adapt residences to meet the needs of older individuals with disabilities;

"(C) to prevent unlawful entry into residences of older individuals, through the installation of security devices and through structural modifications or alterations of such residences; or

"(D) to receive applications from older individuals for housing under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q).

"(4) Services designed to assist older individuals to avoid institutionalization, and services designed to assist individuals in long-term care institutions who are able to return to their communities, including—

"(A) client assessment services and development and coordination of community-based services;

"(B) in-home services for frail older individuals, including services for older individuals with Alzheimer's disease and related disorders and with neurological or organic brain dysfunction (and for families of such individuals);

"(C) supportive activities to meet the special needs of caregivers, including caregivers who

provide in-home services to frail older individuals; and

"(D) in-home and other community-based services to assist older individuals to live independently in a home environment, including home health, homemaker, shopping, escort, reader, and letter-writing services.

"(5) 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.

"(6) Services designed to enable older individuals to attain and maintain physical and mental well-being through programs of regular physical activity.

"(7) Activities designed to promote disease prevention and health promotion.

"(8) Services designed to provide, for older individuals, preretirement counseling and assistance in planning for and assessing future post-retirement needs with regard to insurance benefits, public benefits, lifestyle changes, relocation, legal matters, leisure time, and other appropriate matters.

"(9) Services that 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.

"(10) Services to encourage the employment of older individuals (which shall be coordinated with the assistance provided through the community service employment program carried out under subtitle C of title II), including job and second career counseling and, in an appropriate case, job development, referral, and placement.

"(11) Services for the prevention of elder abuse, neglect, and exploitation.

"(12) Crime prevention services, and victim assistance programs, for older individuals.

"(13) Health and nutrition education services, including information concerning prevention, diagnosis, treatment, and rehabilitation relating to age-related diseases and chronic disabling conditions.

"(14) Services designed to enable mentally impaired older individuals to attain and maintain emotional well-being and independent living through a comprehensive and coordinated system of services described in the other paragraphs of this section.

"(15) 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.

"(16) 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.

"(17) Services to support the establishment or maintenance of multipurpose senior centers.

"(18) Services that provide reasonable opportunities for older individuals to participate on a voluntary basis in multigenerational activities.

"(19) Transportation services to facilitate access to the services authorized to be provided under any other paragraph of this section.

"(20) Services provided through a State long-term care ombudsman program in accordance with subtitle B of title II.

"(21) Any other services, if provision of the services is consistent with the core objectives described in section 101(2).

"Subtitle C—Nutrition Services

"SEC. 321. PROGRAM AUTHORIZED.

"(a) NUTRITION SERVICES.—The Assistant Secretary shall carry out a program for making grants to States, under State plans approved under section 202, to enable the States to assist eligible area agencies on aging in establishing and operating, through grants and contracts with agencies, nutrition projects that provide 5 or more days a week (or less frequently in a rural area where such frequency is not feasible or in a State for which a lesser frequency is approved by the State agency)—

"(1) meals to eligible individuals in congregate meals settings; and

"(2) meals to eligible individuals in their homes.

"(b) REQUIREMENTS.—Meal providers providing meals under a grant or contract made under this subtitle shall provide eligible older individuals with at least 1 meal per day and any additional meals per day that the agency carrying out the project under the grant or contract may elect to provide.

"SEC. 322. ADDITIONAL REQUIREMENTS.

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

"(1) solicit the advice of a dietitian or an individual with comparable expertise in the planning of nutritional services; and

"(2) ensure that—

"(A) the project provides meals that—

"(i) comply with the Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture;

"(ii) provide to each older individual served by the project—

"(I) a minimum of 33⅓ percent of the daily recommended dietary allowances established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of

Sciences, if the project provides 1 meal per day;

"(II) a minimum of 66⅔ percent of the allowances, if the project provides 2 meals per day; and

"(III) 100 percent of the allowances, if the project provides 3 meals per day; and

"(iii) to the maximum extent practicable, are adjusted to meet any special dietary needs of project participants;

"(B) the agency carrying out the project provides flexibility to local meal providers in designing meals that are appealing to project participants;

"(C) the agency carrying out the project makes grants, or encourages meal providers to enter into contracts, that limit the amount of time that meals may spend in transit before the meals are consumed;

"(D) the agency carrying out the project, where feasible, encourages arrangements with schools and other facilities serving meals to children in order to promote intergenerational meal programs;

"(E) the agency carrying out the project provides that meals, other than home-delivered meals, are provided in settings in as close proximity to the majority of the residences of older individuals served by the project as is feasible;

"(F) the agency carrying out the project ensures that meal providers carry out such project with the advice of dietitians (or individuals with comparable expertise in the planning of nutritional services), older individuals served by the project, and other individuals who are knowledgeable with regard to the needs of older individuals;

"(G) the agency carrying out the project 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 older individuals served by the project, to individuals providing volunteer services during the meal hours, and to individuals with disabilities who reside at home with, and accompany to the meal, older individuals served by the project;

"(H) the agency carrying out the project 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 that are occupied primarily by older individuals and at which congregate nutrition services are provided;

"(I) the project, where appropriate, provides for nutrition education, counseling, and screening; and

"(J) the agency carrying out the project ensures that meal providers carry out such project in accordance with applicable State and local laws relating to food service.

"TITLE IV—NATIVE AMERICAN PROGRAMS ON AGING

"SEC. 401. GRANTS FOR SERVICES TO NATIVE AMERICANS.

"(a) AUTHORITY TO MAKE GRANTS.—The Assistant Secretary may make grants to organizations that meet the requirements of subsection (b) and section 402 (referred to individually in this title as an 'eligible organization') to pay for 100 percent of the costs of projects for delivery of supportive services, and nutrition services, for older individuals who are Native Americans.

"(b) ELIGIBILITY OF ORGANIZATIONS.—An organization shall be eligible to receive a grant under this title only if the organization is—

"(1) a tribal organization that—

"(A) represents at least 50 older individuals; and

"(B) demonstrates the ability to deliver supportive services and nutrition services;

"(2) an Alaska Native organization that—

"(A) represents at least 50 older individuals; and

"(B) demonstrates the ability to deliver supportive services and nutrition services; or

"(3) a public or nonprofit private organization that—

"(A) is primarily controlled by and comprised of Native Hawaiians;

"(B) will serve at least 50 older individuals who are Native Hawaiians; and

"(C) demonstrates the ability to deliver supportive services and nutrition services.

"SEC. 402. APPLICATIONS FOR GRANTS.

"(a) REQUIREMENT.—To be eligible to receive a grant under this title, an organization shall submit an application to the Assistant Secretary at such time, in such form,

and containing such information as the Assistant Secretary may establish by rule. Each such application shall—

"(1) provide an assurance that such organization will evaluate the need for supportive services and nutrition services among older individuals who are—

"(A) Indians represented by the organization submitting the application if such organization is a tribal organization described in section 401(b)(1);

"(B) Alaska Natives represented by the organization submitting the application if such organization is an Alaska Native organization described in section 401(b)(2); or

"(C) Native Hawaiians to be served by the organization submitting the application if such organization is an organization described in section 401(b)(3);

"(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the project to be carried out with such grant;

"(3) provide an assurance that such organization will make such reports at such time, 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;

"(4) provide for periodic evaluation of the project to be carried out with such grant;

"(5) contain information describing objectives toward which such project will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which such organization proposes to overcome such obstacles;

"(6) provide for establishing and maintaining information and assistance services to ensure that older individuals who are served by such project will have reasonably convenient access to the services and activities provided by such project;

"(7) provide an assurance that the organization will, whenever feasible, give preference to older individuals who are Native Americans in hiring individuals for full- or part-time staff positions;

"(8) provide an assurance that, either directly or by way of grant or contract with appropriate entities, the organization will—

"(A) ensure that nutrition services will be delivered to older individuals as described in paragraph (1); and

"(B) substantially comply with subtitle C of title III;

except that in any case in which the need of such individuals for nutrition services is already met from other sources, such organization may expend for supportive services the funds otherwise required to be expended under this paragraph;

"(9) provide an assurance that in providing any legal assistance services or ombudsman services to older individuals as described in paragraph (1), the organization will substantially comply with the provisions of subtitles A and B of title II, and subtitles A and B of title III, relating to furnishing similar services;

"(10) provide an assurance that the organization will adopt such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under this title to such organization, including any funds paid by such organization to a recipient of a grant or contract under this title;

"(11) demonstrate that such organization will coordinate services provided under this title with services provided under subtitles B, C, and D of title II,

and subtitles B and C of title III, in the same geographical area; and

"(12) if the organization elects to solicit voluntary contributions from older individuals, provide an assurance that such organization will ensure that—

"(A) the amount of the contributions will be based on the ability of the older individuals to make such contributions; and

"(B) the contributions will be used to increase, or to expand access to, services provided under this title.

"(b) POPULATION STATISTICS.—For the purpose of obtaining information for any application submitted under subsection (a) for a grant, an organization may develop population statistics approved by the Bureau of Indian Affairs for the population to be served under the grant, in order to establish eligibility to receive a grant under this title.

"(c) APPROVAL OF APPLICATION.—

"(1) IN GENERAL.—The Assistant Secretary shall approve any application that complies with subsection (a).

"(2) REPORTS.—The Assistant Secretary shall provide waivers and exemptions of the reporting re-

quirements of subsection (a)(3) for applicants that serve Native American populations in geographically isolated areas, or applicants that serve small Native American 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) NUTRITION SERVICES.—In determining whether an application complies with the requirements of subsection (a)(8)(B), the Assistant Secretary shall provide maximum flexibility to an applicant who 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 Native American populations to be served.

"(4) COORDINATION.—In determining whether an application complies with the requirements of subsection (a)(11), the Assistant Secretary shall require only that an applicant provide a narrative description of the geographical area to be served and an assurance that the applicant will adopt procedures on

receipt of the grant to ensure against duplicate services being provided to the same recipients.

"(d) APPLICATION NOT APPROVED.—Whenever the Assistant Secretary determines that the Assistant Secretary will not approve an application submitted under subsection (a) by an organization the Assistant Secretary shall—

"(1) provide objections relating to the application in writing to the organization within 60 days after such determination;

"(2) provide, to the extent practicable, technical assistance to the organization to overcome such objections; and

"(3) provide the organization with a hearing, under such rules as the Assistant Secretary may issue.

"(e) PERIOD FUNDED.—Whenever the Assistant Secretary approves an application of an organization under subsection (c), the Assistant Secretary shall make a grant to the organization under this title for a period of not less than 12 months.

"SEC. 403. DISTRIBUTION OF FUNDS AMONG ELIGIBLE ORGANIZATIONS.

"(a) MAINTENANCE OF 1991 AMOUNTS.—Subject to the availability of appropriations to carry out this title, the amount of a grant (if any) made under this title to an

eligible organization for fiscal year 1997 or a subsequent fiscal year shall be not less than the amount of the grant made to the eligible organization for fiscal year 1991 under part A or B of title VI (as in effect on September 30, 1990).

"(b) USE OF ADDITIONAL AMOUNTS APPROPRIATED.—If the amount appropriated to carry out this title for fiscal year 1997 or a subsequent fiscal year exceeds the amount appropriated to carry out parts A and B of such title VI for fiscal year 1991, the amount of the grant (if any) made under this title to an eligible organization for such subsequent fiscal year shall be—

"(1) increased by such amount as the Assistant Secretary considers to be appropriate, in addition to any amount required by subsection (a), so that the grant equals or more closely approaches the amount of the grant made to the eligible organization—

"(A) for fiscal year 1980 under part A of title VI (as in effect on September 30, 1979); or

"(B) for fiscal year 1995 under part B of title VI (as in effect on September 30, 1994); or

"(2) an amount the Assistant Secretary considers to be sufficient, if the eligible organization—

"(A) in the case of an organization described in paragraph (1) or (2) of section 401(b), did not receive a grant under part A of title VI

for either fiscal year 1980 or fiscal year 1991 (as in effect on September 30, 1979 or September 30, 1990, as appropriate); or

"(B) in the case of an organization described in section 401(b)(3), did not receive a grant under part B of title VI for either fiscal year 1991 or fiscal year 1995 (as in effect on September 30, 1990 or September 30, 1994, as appropriate).

"SEC. 404. SURPLUS EDUCATIONAL FACILITIES.

"(a) REQUIREMENT.—

"(1) AVAILABILITY.—Notwithstanding any other provision of law, the Secretary of the Interior shall—

"(A) make a surplus Indian educational facility or a surplus Alaska Native educational facility available for use as a multipurpose senior center—

"(i) to an organization described in section 401(b)(1) or an organization described in section 401(b)(2), respectively; or

"(ii) with the approval of the Indian tribe or Alaska Native organization involved, to a public or nonprofit private organization; and

"(B) make any other surplus educational facility that is under the control of the Secretary of the Interior and is located in Hawaii available for use as a multipurpose senior center, to an organization described in section 401(b)(3).

"(2) ALTERATION TO PROVIDE CERTAIN SERVICES.—Such centers may be altered so as to provide extended care facilities, community center facilities, nutrition services, adult day-care services, child care services, or other supportive services.

"(b) APPLICATION.—To be eligible to receive a surplus educational facility made available under subsection (a), an organization described in section 401(b) shall submit an application to the Secretary of the Interior at such time, in such form, and containing such information, as the Secretary of the Interior determines to be necessary to carry out this section.

"SEC. 405. ADMINISTRATION.

"For the purpose of issuing rules to carry out this title, the Secretary, acting through the Assistant Secretary, shall consult with the Secretary of the Interior.

"SEC. 406. PAYMENTS.

"Payments may be made under this title (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reim-

bursement and in such installments and on such conditions as the Assistant Secretary may determine to be appropriate.

"SEC. 407. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title, such sums as may be necessary for fiscal years 1997 through 2001.".

SEC. 5. CONFORMING AMENDMENTS.

(a) AGRICULTURE AND FOOD ACT OF 1981.—Section 1114(a)(2) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)) is amended in subparagraphs (C) and (D) by striking "section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030a(a)(4))" each place it appears and inserting "section 123, and subtitle C of title III, of the Older Americans Act of 1965".

(b) JOB TRAINING PARTNERSHIP ACT.—

(1) Section 204(d) of the Job Training Partnership Act (29 U.S.C. 1604(d)) is amended—

(A) in paragraph (4), by striking "title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.)" and inserting "subtitle C of title II of the Older Americans Act of 1965"; and

(B) in paragraph (5)(B)(i), by striking "title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.)" and inserting "subtitle C of title II of the Older Americans Act of 1965".

(2) Section 205(a)(8) of such Act (29 U.S.C. 1605(a)(8)) is amended to read as follows:

"(8) subtitle C of title II of the Older Americans Act of 1965;".

(3) Section 455(b) of such Act (29 U.S.C. 1735(b)) is amended by striking "title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.)" and inserting "subtitle C of title II of the Older Americans Act of 1965".

(c) TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988.—Section 102(e)(23)(G) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2212(e)(23)(G)) is amended by striking "any council established under section 204, 206(g)(2)(A), or 712(a)(3)(H) of the Older Americans Act of 1965 (42 U.S.C. 3015, 3017(g)(2)(A), or 3058g(a)(3)(H))" and inserting "any council established under section 212(c)(3)(G) or 302(a)(5)(D) of the Older Americans Act of 1965".

(d) TITLE 31, UNITED STATES CODE.—Section 3803(c)(2)(C)(xi) of title 31, United States Code is amended by striking "benefits under section 336 of the Older Americans Act" and inserting "benefits under subtitle C of title III of the Older Americans Act of 1965".

(e) OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—Section 4360(d)(1)(C)(ii) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 1395b–4(d)(1)(C)(ii)) is amended by inserting "of 1965" after "Older Americans Act".

(f) SOCIAL SECURITY ACT.—

(1) Section 1819 of the Social Security Act (42 U.S.C. 1395i–3) is amended—

(A) in subsection (b)(4)(C)(ii)(IV), by striking "section 307(a)(12) of the Older Americans Act of 1965" and inserting "the Older Americans Act of 1965, in accordance with subtitle B of title II of such Act";

(B) in subsection (c)(2)(B)(iii)(II), by striking "title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act" and inserting "the Older Americans Act of 1965, in accordance with subtitle B of title II of such Act"; and

(C) in subsection (g)(5)(B), by striking "title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act" and inserting "the Older Americans Act of 1965, in accordance with subtitle B of title II of such Act".

(2) Section 1919 of such Act (42 U.S.C. 1396r) is amended—

(A) in subsection (b)(4)(C)(ii)(IV), by striking "section 307(a)(12) of the Older Americans Act of 1965" and inserting "the Older Americans Act of 1965, in accordance with subtitle B of title II of such Act";

(B) in subsection (c)(2)(B)(iii)(II), by striking "title III or VII of the Older Americans Act of 1965" and inserting "the Older Americans Act of 1965, in accordance with subtitle B of title II of such Act"; and

(C) in subsection (g)(5)(B), by striking "title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act" and inserting "the Older Americans Act of 1965, in accordance with subtitle B of title II of such Act".

(g) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.—The last sentence of section 209 of the Housing and Community Development Act of 1974 (42 U.S.C. 1438) is amended by striking "title III of the Older Americans Act of 1965" and inserting "sections 202 and 302 of the Older Americans Act of 1965".

(h) NATIONAL SCHOOL LUNCH ACT.—

(1) Section 14 of the National School Lunch Act (42 U.S.C. 1762a) is amended—

(A) in subsection (a)(1), by striking "title III of the Older Americans Act of 1965" and inserting "subtitle C of title III of the Older Americans Act of 1965"; and

(B) in subsection (c), by striking "purchased for donation under section 311(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3030(a)(4)) or for cash payments in lieu of such donations under section 311(b)(1) of such Act (42 U.S.C. 3030(b)(1))" and inserting "purchased under section 123 of the Older Americans Act of 1965 or for allotments under such section".

(2) Section 17(o)(3)(B) of such Act (42 U.S.C. 1766(o)(3)(B)) is amended by striking "part C of title III of the Older Americans Act of 1965" and inserting "subtitle C of title III of the Older Americans Act of 1965".

(i) ENVIRONMENTAL PROGRAMS ASSISTANCE ACT OF 1984.—Section 2(a) of the Environmental Programs Assistance Act of 1984 (42 U.S.C. 4368a(a)) is amended by striking "title V of the Older Americans Act of 1965" each place

it appears and inserting "subtitle C of title II of the Older Americans Act of 1965".

(j) INTERGOVERNMENTAL PERSONNEL ACT OF 1970.—Section 208(a)(3)(B) of the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728(a)(3)(B)) is amended by inserting before the semicolon the following "(as in effect on January 4, 1971)".

(k) NOISE CONTROL ACT OF 1972.—Section 14(g) of the Noise Control Act of 1972 (42 U.S.C. 4913(g)) is amended by inserting "of 1965" after "Older Americans Act".

(l) DOMESTIC VOLUNTEER SERVICE ACT OF 1973.—Section 221(a)(2)(A)(ii) of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5021(a)(2)(A)(ii)) is amended by striking "title III of the Older Americans Act of 1965" and inserting "subtitles B and D of title II, and subtitles B and C of title III, of the Older Americans Act of 1965".

(m) DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT.—Section 124(b)(3) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024(b)(3)) is amended by inserting "of 1965" after "Older Americans Act".

(n) ENERGY CONSERVATION IN EXISTING BUILDINGS ACT OF 1976.—Section 412(6) of the Energy Conservation in Existing Buildings Act of 1976 (42 U.S.C. 6862(6)) is amended by striking "paragraphs (4), (5), and (6), respec-

tively, of section 102 of the Older Americans Act of 1965" and inserting "paragraphs (24)(A), (25)(A), and (50)(A), respectively, of section 102 of the Older Americans Act of 1965".

(o) CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—

(1) Section 802(d)(2)(B)(i) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(d)(2)(B)(i)) is amended by striking "title III of the Older Americans Act of 1965" and inserting "subtitle C of title III of the Older Americans Act of 1965".

(2) Section 803(d)(12) of such Act (42 U.S.C. 8012(d)(12)) is amended by striking "under title III of the Older Americans Act of 1965" and inserting ", as defined in section 102 of the Older Americans Act of 1965".

(p) ALZHEIMER'S DISEASE AND RELATED DEMENTIAS RESEARCH ACT OF 1992.—

(1) Section 934(b)(4) of the Alzheimer's Disease and Related Dementias Research Act of 1992 (42 U.S.C. 11261(b)(4)) is amended by striking "State and area agencies on aging designated under section 305(a) (1) and (2)(A) of the Older Americans Act of 1965 (42 U.S.C. 3025(a) (1) and (2)(A))" and insert-

ing "State agencies, and area agencies on aging, as defined in section 102 of the Older Americans Act of 1965".

(2) Section 962(d) of such Act (42 U.S.C. 11292(d)) is amended by striking "designated under section 305(a)(1) of the Older Americans Act of 1965" and inserting ", as defined in section 102 of the Older Americans Act of 1965".

SEC. 6. REFERENCES TO PRECEDING FISCAL YEAR.

Any reference in the Older Americans Act of 1965 to "the preceding fiscal year" that applies with respect to funds received to carry out a program, project, or activity under such Act for a fiscal year shall be deemed to be a reference to funds received to carry out the corresponding program, project, or activity under such Act for the preceding fiscal year.

SEC. 7. ISSUANCE OF RULES.

In addition to the rules issued under section 9(f), not later than 180 days after the date of enactment of this Act, the Secretary of Health and Human Services shall issue, and publish in the Federal Register, proposed rules for the administration of the Older Americans Act of 1965 (as amended in section 4). After allowing a reasonable period for public comment on such proposed rules, and not later

than 90 days after such publication, the Secretary shall issue final rules for the administration of such Act.

SEC. 8. APPLICATION OF AMENDMENTS.

(a) FISCAL YEAR 1996.—

(1) COMMUNITY SERVICE EMPLOYMENT.—The amendment made by section 3 shall apply only with respect to fiscal year 1996 and to funds appropriated for such fiscal year to carry out title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

(2) ENFORCEMENT.—The authority of the Secretary of Labor to enforce compliance with the requirements applicable to such title with respect to actions taken prior to the effective date of section 3, shall not be affected by the amendment made by section 3.

(b) FISCAL YEARS 1997–2001.—The amendment made by section 4 shall not apply with respect to fiscal years beginning before October 1, 1996.

SEC. 9. TRANSFER OF FUNCTIONS.

(a) DEFINITIONS.—For purposes of this section, unless otherwise provided or indicated by the context—

(1) the term "Federal agency" has the meaning given to the term "agency" by section 551(1) of title 5, United States Code;

(2) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(3) the term "office" includes any office, administration, agency, institute, unit, organizational entity, or component thereof.

(b) TRANSFER OF FUNCTIONS.—

(1) IN GENERAL.—There are transferred to the Department of Health and Human Services all functions that the Secretary of Labor exercised before the effective date of this section (including all related functions of any officer or employee of the Department of Labor) that—

(A) relate to title V of the Older Americans Act of 1965 (as in effect on the day before the effective date of this section); and

(B) that are minimally necessary to carry out title V of such Act (as in effect on the day after the effective date of this section).

(2) TERMINATION OF AUTHORITY.—Except as otherwise specifically provided in this Act, the authority of a transferred employee to carry out a function that relates to title V of the Older Americans Act of 1965 (as in effect on the day before the effective date

of this section) and is not transferred under this Act shall terminate on the effective date of this section.

(c) DETERMINATIONS OF CERTAIN FUNCTIONS BY THE OFFICE OF MANAGEMENT AND BUDGET.—If necessary, the Office of Management and Budget shall make any determination of the functions that are transferred under subsection (b).

(d) DELEGATION AND ASSIGNMENT.—Except where otherwise expressly prohibited by law or otherwise provided by this section, the Secretary of Health and Human Services may delegate any of the functions transferred to the Department of Health and Human Services by this section and any function transferred or granted to the Department of Health and Human Services after the effective date of this section to such officers and employees of the Department of Health and Human Services as the Secretary of Health and Human Services may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the Secretary of Health and Human Services under this subsection or under any other provision of this section shall relieve such Secretary of Health and Human Services of responsibility for the administration of such functions.

(e) REORGANIZATION.—The Secretary of Health and Human Services may allocate or reallocate any function

transferred under subsection (b) among the officers of the Department of Health and Human Services, and establish, consolidate, alter, or discontinue such organizational entities in the Department of Health and Human Services as may be necessary or appropriate.

(f) RULES.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall issue, and publish in the Federal Register, proposed rules for the administration of title V of the Older Americans Act of 1965 (as amended in section 3). After allowing a reasonable period for public comment on such proposed rules, and not later than July 1, 1996, the Secretary shall issue final rules for the administration of such title.

(g) TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.—

(1) IN GENERAL.—Except as otherwise provided in this section, the personnel employed in connection with, and the assets, liabilities, contracts, grants, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred by this section, subject to section 1531 of title 31, United States Code, shall be transferred to the Department of Health and Human Services. Un-

expended funds transferred pursuant to this subsection shall be used only to carry out the functions of the Department of Health and Human Services under title V of the Older Americans Act of 1965 (as in effect on the day after the effective date of this section).

(2) EXISTING FACILITIES AND OTHER FEDERAL RESOURCES.—Pursuant to paragraph (1), the Secretary of Health and Human Services shall supply such office facilities, office supplies, support services, and related expenses as may be minimally necessary to carry out such functions. None of the funds made available under this Act, or an amendment made by this Act, may be used for the construction of office facilities.

(h) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this section, and make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to

carry out this section. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all entities terminated by this section and for such further measures and dispositions as may be necessary to effectuate the objectives of this section.

(i) EFFECT ON PERSONNEL.—

(1) TERMINATION OF CERTAIN POSITIONS.—Positions whose incumbents are appointed by the President, by and with the advice and consent of the Senate, the functions of which are transferred by this section, shall terminate on the effective date of this section.

(2) ACTIONS.—The Secretary of Health and Human Services shall take such actions as may be necessary, including reduction in force actions, consistent with sections 3502 and 3595 of title 5, United States Code, to ensure that the personnel whose positions relate to a function described in subsection (b)(1)(A) and are not transferred under subsection (b) are separated from service.

(j) SAVINGS PROVISIONS.—

(1) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, agreements, grants, contracts, certifi-

cates, licenses, registrations, privileges, and other administrative actions—

(A) that have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official of a Federal agency, or by a court of competent jurisdiction, in the performance of functions that are transferred under this section; and

(B) that were in effect before the effective date of this section, or were final before the effective date of this section and are to become effective on or after the effective date of this section; shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary of Health and Human Services or other authorized official, a court of competent jurisdiction, or by operation of law.

(2) PROCEEDINGS NOT AFFECTED.—

(A) IN GENERAL.—This section shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending before the Department of Labor on the

effective date of this section, with respect to functions transferred by this section.

(B) CONTINUATION.—Such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken from the orders, and payments shall be made pursuant to the orders, as if this section had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(C) CONSTRUCTION.—Nothing in this paragraph shall be construed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(3) SUITS NOT AFFECTED.—This section shall not affect suits commenced before the effective date of this section, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this section had not been enacted.

(4) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Labor, or by or against any individual in the official capacity of such individual as an officer of the Department of Labor, shall abate by reason of the enactment of this section.

(5) ADMINISTRATIVE ACTIONS RELATING TO PROMULGATION OF REGULATIONS.—Any administrative action relating to the preparation or promulgation of a regulation by the Department of Labor relating to a function transferred under this section may be continued by the Department of Health and Human Services with the same effect as if this section had not been enacted.

(k) TRANSITION.—The Secretary of Health and Human Services may utilize—

(1) the services of officers, employees, and other personnel of the Department of Labor with respect to functions transferred to the Department of Health and Human Services by this section; and

(2) funds appropriated to such functions;

for such period of time as may reasonably be needed to facilitate the orderly implementation of this section.

(l) REFERENCES.—A reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to—

(1) the Secretary of Labor with regard to functions transferred under subsection (b), shall be deemed to refer to the Secretary of Health and Human Services; and

(2) the Department of Labor with regard to functions transferred under subsection (b), shall be deemed to refer to the Department of Health and Human Services.

(m) ADDITIONAL CONFORMING AMENDMENTS.—

(1) RECOMMENDED LEGISLATION.—After consultation with the appropriate committees of Congress and the Director of the Office of Management and Budget, the Secretary of Health and Human Services shall prepare and submit to Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this section.

(2) SUBMISSION TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit the recommended legislation referred to in paragraph (1).

SEC. 10. EFFECTIVE DATES.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) SPECIAL EFFECTIVE DATES.—

(1) COMMUNITY SERVICE EMPLOYMENT.—Section 9 (other than subsections (f) and (m) of such section), and the amendment made by section 3, shall take effect on July 1, 1996.

(2) OTHER PROGRAMS.—The amendments made by sections 4 and 5 shall take effect on October 1, 1996.