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[COMMITTEE PRINT]

A COMPILATION OF FEDERAL EDUCATION LAWS

VOLUME VI—NUTRITION, HUMAN SERVICES, AND RELATED LAWS

As Amended Through December 31, 2002

PREPARED FOR THE USE OF THE

COMMITTEE ON EDUCATION AND THE WORKFORCE

OF THE

U.S. HOUSE OF REPRESENTATIVES

Serial No. 107–D

AND FOR THE USE OF THE

COMMITTEE ON LABOR, EDUCATION, LABOR, AND PENSIONS

OF THE

UNITED STATES SENATE

S. Prt. 107–88

ONE HUNDRED SEVENTH CONGRESS
SECOND SESSION

JANUARY 2003

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[1] Resigned February 8, 2001.
[2] Elected and seniority changes pursuant to H. Res. 33
[3] Appointed March 7, 2001.
[4] Resigned March 20, 2002.
[5] Appointed April 18, 2002.
[6] Died September 28, 2002.
[7] Died October 28, 2002.

For changes after the closing date of this publication (December 31, 2002) to provisions of law in this publication, see the United States Code Classification Tables published by the Office of the Law Revision Counsel of the House of Representatives at http://uscode.house.gov/uscct.htm.

TABLE OF CONTENTS

VOLUME VI—NUTRITION, HUMAN SERVICES, AND RELATED LAWS

CHILD NUTRITION ACT OF 1966

[As Amended Through P.L. 107–249, October 23, 2002]

TABLE OF CONTENTS

Bracketed material and footnotes did *not* appear in Acts.

Public Law 89–642

AN ACT

To strengthen and expand food service programs for children.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [42 U.S.C. 1771 note] That this Act may be cited as the "Child Nutrition Act of 1966". [1–1]

DECLARATION OF PURPOSE

SEC. 2. [42 U.S.C. 1771] In recognition of the demonstrated relationship between food and good nutrition and the capacity of children to develop and learn, based on the years of cumulative successful experience under the national school lunch program with its significant contributions in the field of applied nutrition research, it is hereby declared to be the policy of Congress that these efforts shall be extended, expanded, and strengthened under the authority of the Secretary of Agriculture as a measure to safeguard the health and well-being of the Nation's children, and to encourage the domestic consumption of agricultural and other foods, by assisting States, through grants-in-aid and other means, to meet more effectively the nutritional needs of our children.

SPECIAL MILK PROGRAM AUTHORIZATION

SEC. 3. [42 U.S.C. 1772] (a) [3–1](1) There is hereby authorized to be appropriated for the fiscal year ending June 30, 1970, and for each succeeding fiscal year such sums as may be necessary to enable the Secretary of Agriculture, under such rules and regulations as the Secretary [3–2] may deem in the public interest, to encourage consumption of fluid milk by children in the United States in (A) nonprofit schools of high school grade and under, except as provided in paragraph (2), which do not participate in a meal service program authorized under this Act or the Richard B. Russell National School Lunch Act [(42 U.S.C. 1751 et seq.)], and (B) nonprofit nurs-

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[1–1] P.L. 89–642, 80 Stat. 885, Oct. 11, 1966.

Section 752(b)(16) of P.L. 106–78, 113 Stat. 1169, Oct. 22, 1989, amended sections 3, 4, 7, 10, 13, 16(b), 17, and 19(d) by striking "National School Lunch Act" each place it appears and inserting "Richard B. Russell National School Lunch Act".

[3–1] This section completely revised by P.L. 91–295, 84 Stat. 336, June, 30, 1970, substituting authorizations of appropriations for fiscal year 1970 and succeeding years, not to exceed $120,000,000, for prior authorizations for fiscal years 1967, 1968, and the two succeeding fiscal years. Section 3(a) of P.L. 93–347, 88 Stat. 341, July 12, 1974, substituted "such sums as may be necessary" for "not to exceed $120,000,000,". Section 3 redesignated as section 3(a) by section 813(c) of P.L. 97–35, 95 Stat. 530, Aug. 13, 1981, and a new subsection (b) added. Section 329 of P.L. 99–500, 100 Stat. 1783–362, Oct. 18, 1986, inserted "(1)" after the subsection designation, redesignated clauses (1) and (2) as subparagraphs (A) and (B) respectively, inserted in subparagraph (A) (as redesignated) "except as provided in paragraph (2)," after "and under,"; designated the second through eighth sentences as paragraphs (3) through (9), respectively; and inserted a new paragraph (2) after paragraph (1) (as so designated). Section 329 of P.L. 99–591, 100 Stat. 3341–365, Oct. 30, 1986, and section 4209 of P.L. 99–661, 100 Stat. 4073, Nov. 14, 1986, made the same revisions.

Section 211(a) of P.L. 101–147, 103 Stat. 911, Nov. 10, 1989, eliminated the duplicate provisions by providing that section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)), as similarly amended first by section 329 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99–591 (100 Stat. 3341–365) and later by section 4209 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661), is amended to read as if only the later amendment was enacted.

[3–2] Section 321(1) of P.L. 101–147, 103 Stat. 916, Nov. 10, 1989, amended the first sentence of paragraph (1) by striking "he" and inserting "the Secretary".

ery schools, child-care centers, settlement houses, summer camps, and similar nonprofit institutions devoted to the care and training of children, which do not participate in a meal service program authorized under this Act or the Richard B. Russell National School Lunch Act. [3–3]

(2) [3–4] The limitation imposed under paragraph (1)(A) for participation of nonprofit schools in the special milk program shall not apply to split-session kindergarten programs conducted in schools in which children do not have access to the meal service program operating in schools the children attend as authorized under this Act or the Richard B. Russell National School Lunch Act. [3–5]

(3) For the purposes of this section "United States" means the fifty States, Guam, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the District of Columbia. [3–6]

(4) The Secretary shall administer the special milk program provided for by this section to the maximum extent practicable in the same manner as the Secretary [3–7] administered the special milk program provided for by Public Law 89–642, as amended, [(80 Stat. 885)] during the fiscal year ending June 30, 1969.

(5) [3–8] Any school or nonprofit child care institution which does not participate in a meal service program authorized under this Act or the Richard B. Russell National School Lunch Act shall receive the special milk program upon its [3–9] request.

(6) [3–10] Children who qualify for free lunches under guidelines established by the Secretary shall, at the option of the school involved (or of the local educational agency involved in the case of a public school) be eligible for free milk upon their request.

(7) [3–11] For the fiscal year ending June 30, 1975, and for subsequent school years, the minimum rate of reimbursement for a half-pint of milk served in schools and other eligible institutions shall

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[3–3] Section 807 of P.L. 97–35, 95 Stat. 527, Aug. 13, 1981, added the requirement that schools and other institutions may participate in the Special Milk Program only if they do not participate in any other program authorized under this Act or the Richard B. Russell National School Lunch Act.

[3–4] This paragraph added by section 329(3) of P.L. 99–500, 100 Stat. 1783–362, Oct. 18, 1986. Section 329(3) of P.L. 99–591, 100 Stat. 3341–365, Oct. 30, 1986, and section 4209(3) of P.L. 99–661, 100 Stat. 4073, Nov. 14, 1986, made the same addition.

[3–5] Section 321(2) of P.L. 101–147, 103 Stat. 916, Nov. 10, 1989, amended paragraph (2) by striking "(42 U.S.C. 1751 et seq.)".

[3–6] P.L. 91–295, 84 Stat. 336, June 30, 1970, revised definition to include Guam. Section 15(1) of P.L. 94–105, 89 Stat. 522, Oct. 7, 1975, inserted "the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands,". Section 721 of P.L. 104–193, 110 Stat. 2301, Aug. 22, 1996, amended paragraph (3) by striking "the Trust Territory of the Pacific Islands" and inserting "the Commonwealth of the Northern Mariana Islands".

[3–7] Section 321(3) of P.L. 101–147, 103 Stat. 916, Nov. 10, 1989, amended paragraph (4) by striking "he" and inserting "the Secretary".

[3–8] This sentence added by section 7 of P.L. 93–150, 87 Stat. 563, Nov. 7, 1973. Section 807 of P.L. 97–35, 95 Stat. 527, Aug. 13, 1981, added the requirement that schools and institutions may participate in the Special Milk Program only if they do not participate in any other programs authorized under this Act or the Richard B. Russell National School Lunch Act.

[3–9] Section 321(4) of P.L. 101–147, 103 Stat. 916, Nov. 10, 1989, amended paragraph (5) by striking "their" and inserting "its".

[3–10] This sentence added by section 7 of P.L. 93–150, 87 Stat. 563, Nov. 7, 1973, amended by section 11 of P.L. 95–166, 91 Stat. 1337, Nov. 10, 1977, and revised by section 5(a) of P.L. 95–627, 92 Stat. 3619, Nov. 10, 1978, effective July 1, 1979.

[3–11] This sentence added by section 3(b) of P.L. 93–347, 88 Stat. 341, July 12, 1974. Sections 20(1) and (2) of P.L. 95–166, 91 Stat. 1346, Nov. 10, 1977, placed the reimbursement on a school year rather than fiscal year basis and deleted reference to fiscal year 1986 as first year for adjustment, effective July 1, 1977. Section 5(a) of P.L. 95–627, 92 Stat. 3619, Nov. 10, 1978, substituted "Producer Price Index for Fresh Processed Milk" for "series of food away from home of the Consumer Price Index", effective July 1, 1979.

not be less than 5 cents per half-pint served to eligible children, and such minimum rate of reimbursement shall be adjusted on an annual basis each school year to reflect changes in the Producer Price Index for Fresh Processed Milk published by the Bureau of Labor Statistics of the Department of Labor.

(8)[3–12] Such adjustment shall be computed to the nearest one-fourth cent.

(9)[3–13] Notwithstanding any other provision of this section, in no event shall the minimum rate of reimbursement exceed the cost to the school or institution of milk served to children.

(10)[3–14] The State educational agency shall disburse funds paid to the State during any fiscal year for purposes of carrying out the program under this section in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State. The agreements described in the preceding sentence shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.

(b)[3–15] Commodity only schools shall not be eligible to participate in the special milk program under this section. For the purposes of the preceding sentence, the term "commodity only schools" means schools that do not participate in the school lunch program under the Richard B. Russell National School Lunch Act [(42 U.S.C. 1751 et seq.)], but which receive commodities made available by the Secretary for use by such schools in nonprofit lunch programs.

SCHOOL BREAKFAST PROGRAM AUTHORIZATION

SEC. 4.[4–1] [42 U.S.C. 1773] (a)[4–2] There is hereby authorized to be appropriated such sums as are necessary to enable the Secretary to carry out a program to assist the States and the Department of Defense[4–3] through grants-in-aid and other means to initiate, maintain, or expand nonprofit breakfast programs in all schools which make application for assistance and agree to carry out a nonprofit breakfast program in accordance with this Act.[4–4]

[3–12] This sentence added by section 3(b) of P.L. 93–347, 88 Stat. 341, July 12, 1974.

[3–13] This sentence added by section 15(2) of P.L. 94–105, 89 Stat. 522, Oct. 7, 1975. Section 209 of P.L. 96–499, 94 Stat. 2602, Dec. 5, 1980, had added a sentence which provided for a 5 cent rate of reimbursement per half pint of milk served to children not eligible for free milk. This sentence deleted by section 807 of P.L. 97–35, 95 Stat. 527, Aug. 13, 1981.

[3–14] Paragraph (10) added by section 211(b) of P.L. 101–147, 103 Stat. 911, Nov. 10, 1989.

[3–15] This subsection added by section 813(c)(2) of P.L. 97–35, 95 Stat. 530, Aug. 13, 1981.

[4–1] Section 322(1) of P.L. 101–147, 103 Stat. 916, Nov. 10, 1989, amended section 4 by striking "reduced-price" each place it appears and inserting "reduced price".

[4–2] Section 5 of P.L. 90–302, 82 Stat. 119, May 8, 1968, substituted authorizations of appropriations for fiscal years 1969–1971 for previous fiscal year 1967 and 1968 authorizations and added provision that "Appropriations and expenditures for this Act shall be considered Health, Education, and Welfare functions for budget purposes rather than functions of Agriculture.". Section 10 of P.L. 91–248, 84 Stat. 214, May 14, 1970, increased the fiscal year 1971 authorization. Section 2 of P.L. 92–32, 85 Stat. 85, June 30, 1971, authorized fiscal year 1972 and 1973 appropriations and deleted fiscal year 1969–1971 authorizations. Section 3(a) of P.L. 92–433, 86 Stat. 724, Sept. 26, 1972, authorized such sums as may be necessary for fiscal years 1973, 1974, and 1975 and deleted fiscal year 1972–1973 authorizations. Section 2 of P.L. 94–105, 89 Stat. 511, Oct. 7, 1975, deleted reference to fiscal years 1973–1975.

[4–3] Section 1408(b)(1) of P.L. 95–561, 92 Stat. 2368, Nov. 1, 1978, added reference to Department of Defense.

[4–4] Section 3(a) of P.L. 92–433, 86 Stat. 724, Sept. 26, 1972, substituted "in all schools which make application for assistance and agree to carry out a nonprofit breakfast pro-

Appropriations and expenditures for this Act shall be considered Health and Human Services [4–5]functions for budget purposes rather than functions of Agriculture.

APPORTIONMENT TO STATES

(b)[4–6](1)[4–7](A)(i)[4–8] The Secretary shall make breakfast assistance payments to each State educational agency each fiscal year, at such times as the Secretary may determine, from the sums appropriated for such purpose, in an amount equal to the product obtained by multiplying—

(I) the number of breakfasts served during such fiscal year to children in schools in such States which participate in the school breakfast program under agreements with such State educational agency; by

(II) the national average breakfast payment for free breakfasts, for reduced price breakfasts, or for breakfasts served to children not eligible for free or reduced price meals, as appropriate, as prescribed in clause (B) of this paragraph.

(ii)[4–9] The agreements described in clause (i)(I) shall be permanent agreements that may be amended as necessary. Nothing in the preceding sentence shall be construed to limit the ability of the State educational agency to suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.

(B) The national average payment for each free breakfast shall be 57 cents (as adjusted pursuant to section 11(a) of the Richard B. Russell National School Lunch Act **[**(42 U.S.C. 1759a(a))**]**. The national average payment for each reduced price breakfast shall be one-half of the national average payment for each free breakfast,[4–10] except that in no case shall the difference between the amount of the national average payment for a free breakfast and the national average payment for a reduced price breakfast exceed 30 cents. The national average payment for each breakfast served to a child not eligible for free or reduced price meals shall be 8.25

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gram in accordance with this Act" for "in schools". The phrase "and to carry out the provisions of subsection (g)" was added by section 121(1) of P.L. 101–147, 103 Stat. 891, Nov. 10, 1989, and struck by section 201 of P.L. 105–336, 112 Stat. 3158, Oct. 31, 1998.

[4–5] Section 509(b) of P.L. 96–88, 93 Stat. 695, Oct. 17, 1979, provided that any reference to the Secretary of Health, Education, and Welfare shall be deemed to refer to the Secretary of Health and Human Services. Section 372(b)(1) of P.L. 99–500, 100 Stat. 1783–369, Oct. 18, 1986, amended this section—as well as subsections (b)(6), (b)(13), (e)(2), (k)(1), and (k)(2) of section 17 (42 U.S.C. 1786), and subsections (d)(2) and (d)(3) of section 19 (42 U.S.C. 1788)—by striking out "Health, Education, and Welfare" each place it appeared therein and inserting in lieu thereof "Health and Human Services". Section 372(b)(1) of P.L. 99–591, 100 Stat. 3341–372, Oct. 30, 1986, and section 4502(b)(1) of P.L. 99–661, 100 Stat. 4080, Nov. 14, 1986, made the same substitutions.

[4–6] Section 3(b) of P.L. 92–433, 86 Stat. 724, Sept. 26, 1972, completely revised this subsection. This subsection further revised by section 4(c) of P.L. 93–150, 87 Stat. 56, Nov. 7, 1973, by adding two sentences setting national average payments and severe need payments. Section 15(b) of P.L. 94–105, 89 Stat. 522, Oct. 7, 1975, added references to the Trust Territory of the Pacific Islands.

[4–7] Section 12 of P.L. 95–166, 91 Stat. 1337, Nov. 10, 1977, designated subsection (b) as (b)(1), struck the last sentence concerning severe need payments, and added a new paragraph (2). Subsection (b)(1) completely revised by section 801(c)(1) of P.L. 97–35, 95 Stat. 522, Aug. 13, 1981.

[4–8] Section 212(b) of P.L. 101–147, 103 Stat. 912, Nov. 10, 1989, redesignated clauses (i) and (ii) as subclauses (I) and (II), inserted "(i)" after "(A)", and inserted a new clause (ii).

[4–9] See note 4–8.

[4–10] Section 103(b)(2)(A) of P.L. 105–336, 112 Stat. 3146, Oct. 31, 1998, amended this sentence by striking "adjusted to the nearest one-fourth cent,".

cents (as adjusted pursuant to section 11(a) of the Richard B. Russell National School Lunch Act).[4–11]

(C) No school which receives breakfast assistance payments under this section may charge a price of more than 30 cents for a reduced price breakfast.

(D) No breakfast assistance payment may be made under this subsection for any breakfast served by a school unless such breakfast consists of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under subsection (e) of this section.

(E)[4–12] FREE AND REDUCED PRICE POLICY STATEMENT.—After the initial submission, a school food authority shall not be required to submit a free and reduced price policy statement to a State educational agency under this Act unless there is a substantive change in the free and reduced price policy of the school food authority. A routine change in the policy of a school food authority, such as an annual adjustment of the income eligibility guidelines for free and reduced price meals, shall not be sufficient cause for requiring the school food authority to submit a policy statement.

(2)[4–13](A) The Secretary shall make additional payments for breakfasts served to children qualifying for a free or reduced price meal at schools that are in severe need.

(B) The maximum payment for each such free breakfast shall be the higher of—

(i) the national average payment established by the Secretary for free breakfasts plus 10 cents, or

(ii) 45 cents (as adjusted pursuant to section 11(a)(3)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C 1759a(a)(3)(B))).[4–14]

(C) The maximum payment for each such reduced price breakfast shall be thirty[4–15] cents less than the maximum payment for each free breakfast as determined under clause (B) of this paragraph.

[4–11] Section 11(a)(3) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(3)) requires the Secretary of Agriculture to prescribe an annual adjustment in the national average payment rates for breakfasts (as established under section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b))).

Section 12(f) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(f)) permits the Secretary of Agriculture to adjust for certain States the national average payment rates prescribed under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

Section 17(c)(2) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(c)(2)) bases the national average payment rate for free, reduced price, and paid breakfasts on the rates prescribed under section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)).

[4–12] This subparagraph added by section 722 of P.L. 104–193, 110 Stat. 2301, Aug. 22, 1996.

[4–13] This subsection added by section 12(3) of P.L. 95–166, 91 Stat. 1337, Nov. 10, 1977.

[4–14] Section 103(b)(2)(B) of P.L. 105–336, 112 Stat. 3146, Oct. 31, 1998, amended this clause by striking ", which shall be adjusted" and all that follows and inserting "(as adjusted pursuant to section 11(a)(3)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C 1759a(a)(3)(B)))." Previously, this clause was amended by section 210 of P.L. 96–499, 94 Stat. 2602, Dec. 5, 1980, and section 801(c)(2)(A) of P.L. 97–35, 95 Stat. 523, Aug. 13, 1981.

[4–15] Section 801(c)(2)(B) of P.L. 97–35, 95 Stat. 523, Aug. 13, 1981, substituted "thirty" for "five".

(3)[4–16] The Secretary shall increase by 6 cents[4–17] the annually adjusted payment for each breakfast served under this Act and section 17 of the Richard B. Russell National School Lunch Act.[4–18] These funds shall be used to assist States, to the extent feasible, in improving the nutritional quality of the breakfasts.[4–19]

(4) Notwithstanding any other provision of law, whenever stocks of agricultural commodities are acquired by the Secretary or the Commodity Credit Corporation and are not likely to be sold by the Secretary or the Commodity Credit Corporation or otherwise used in programs of commodity sale or distribution, the Secretary shall make such commodities available to school food authorities and eligible institutions serving breakfasts under this Act in a quantity equal in value to not less than 3 cents for each breakfast served under this Act and section 17 of the Richard B. Russell National School Lunch Act.

(5) Expenditures of funds from State and local sources for the maintenance of the breakfast program shall not be diminished as a result of funds or commodities received under paragraph (3) or (4).

STATE DISBURSEMENT TO SCHOOLS

(c) Funds apportioned and paid to any State for the purpose of this section shall be disbursed by the State educational agency to schools selected by the State educational agency to assist such schools in[4–20] operating a breakfast program and for the purpose of subsection (d).[4–21] Disbursement to schools shall be made at such rates per meal or on such other basis as the Secretary shall prescribe. In selecting schools for participation, the State educational agency shall, to the extent practicable, give first consideration to those schools drawing attendance from areas in which poor economic conditions exist, to those schools in which a substantial proportion of the children enrolled must travel long distances daily,

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[4–16] Section 330(a) of P.L. 99–500, 100 Stat. 1783–363, Oct. 16, 1986, added paragraphs (3) through (5). Section 330(a) of P.L. 99–591, 100 Stat. 3341–566, Oct. 30, 1986, and section 4210(a) of P.L. 99–661, 100 Stat. 4074, Nov. 14, 1986, made the same addition.

Section 212(a)(1) of P.L. 101–147, 103 Stat. 912, Nov. 10, 1989, eliminated the duplicate provisions by providing that section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)), as similarly amended first by section 330(a) of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99–591 (100 Stat. 3341–366) and later by section 4210(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661), and as then amended by section 210 of the Hunger Prevention Act of 1988 (Public Law 100–435) is amended to read as if only the amendment made by section 4210(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987, was enacted.

[4–17] Section 212(a)(2)(A) of P.L. 101–147, 103 Stat. 912, Nov. 10, 1989, amended section 4(b)(3) by striking "3 cents" and inserting "6 cents". Section 212(a)(2)(B) provides that the amendments made by such section 212(a)(2)(A) shall take effect as if such amendments had been effective on July 1, 1989. Sections 210 and 701(b)(4) of the Hunger Prevention Act of 1988 (P.L. 100–435) earlier made identical amendments. See note 4–16.

[4–18] Section 322(2) of P.L. 101–147, 103 Stat. 916, Nov. 10, 1989, amended subsection (b)(3) by striking "(42 U.S.C. 1766)".

[4–19] Section 330(b) of Public Laws 99–500 and 99–591 and section 4210(b) of Public Law 99–661 require the Secretary of Agriculture to review and revise the nutrition requirements for meals served under the breakfast program authorized under this Act to improve the nutritional quality of the meals and to promulgate regulations to implement the revisions.

[4–20] Section 819(b) of P.L. 97–35, 95 Stat. 533, Aug. 13, 1981, deleted the words "financing the costs of" from this point in this sentence.

[4–21] This sentence substituted by section 4(a) of P.L. 93–150, 87 Stat. 562, Nov. 7, 1973, for a provision authorizing assistance in financing the cost of obtaining food; section 4(b) of that Act, 87 Stat. 562, also deleted a sentence concerning determination of food costs. Earlier, section 3(a) of P.L. 92–32, 85 Stat. 85, June 30, 1971, amended the original sentence.

and to those schools in which there is a special need for improving the nutrition and dietary practices of children of working mothers and children from low-income families.[4–22] Breakfast assistance disbursements to schools under this section may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.[4–23]

[SEVERE NEED ASSISTANCE]

(d)[4–24](1) Each State educational agency shall provide additional assistance to schools in severe need, which shall include only—

(A) those schools in which the service of breakfasts is required pursuant to State law; and

(B) those schools (having a breakfast program or desiring to initiate a breakfast program) in which, during the most recent second preceding school year for which lunches were served, 40 percent or more of the lunches served to students at the school were served free or at a reduced price, and in which the rate per meal established by the Secretary is insufficient to cover the costs of the breakfast program.

The provision of eligibility specified in clause (A) of this paragraph shall terminate effective July 1, 1983, for schools in States where the State legislatures meet annually and shall terminate effective July 1, 1984, for schools in States where the State legislatures meet biennially.

(2) A school, upon the submission of appropriate documentation about the need circumstances in that school and the school's eligibility for additional assistance, shall be entitled to receive 100 percent of the operating costs of the breakfast program, including the costs of obtaining, preparing, and serving food, or the meal reimbursement rate specified in paragraph (2) of section 4(b) of this Act, whichever is less.

NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

(e)[4–25](1)(A)[4–26] Breakfasts served by schools participating in the school breakfast program under this section shall consist of a combination of foods and shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research, except that the minimum nutritional requirements shall be measured by not less than the weekly average of the nutrient content of school breakfasts.[4–27] Such breakfasts shall be served

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[4–22] Section 3(b) of P.L. 92–32, 85 Stat. 85, June 30, 1971, revised this sentence to extend preference to schools where there is a special need for improving nutrition.

[4–23] This sentence added by section 3(c) of P.L. 94–433, 86 Stat. 725, Sept. 26, 1972.

[4–24] Section 801(c)(3)(A) of P.L. 97–35, 95 Stat. 523, Aug. 13, 1981, completely revised subsection (d) which had been amended previously by section 4 of P.L. 92–32, 85 Stat. 85, June 30, 1971; section 12(4) of P.L. 95–166, 91 Stat. 1338, Nov. 10, 1977; and section 6(c) of P.L. 95–627, 92 Stat. 3620, Nov. 10, 1978.

[4–25] Original language amended by section 6(d) of P.L. 91–248, 84 Stat. 210, May 14, 1970, to prohibit overt identification of needy children; and section 5 of P.L. 92–32, 85, June 30, 1971, to include reference to specific income eligibility requirements. The present language of subsection (e)(1) was substituted by section 3(d) of P.L. 92–433, 86 Stat. 725, Sept. 26, 1972. Section 331 of P.L. 99–500, 100 Stat. 1783–363, Oct. 18, 1986, inserted "(1)" after the subsection designation and added paragraph (2). Section 331 of P.L. 99–591, 100 Stat. 3341–366, Oct. 30, 1986, and section 4211 of P.L. 99–661, 100 Stat. 4074, Nov. 14, 1986, made the same revisions.

[4–26] Section 201(b)(1) of P.L. 103–448, 108 Stat. 4734, Nov. 2, 1994, amended this paragraph by inserting "(A)" after "(1)".

[4–27] Section 201(a) of P.L. 103–448, 108 Stat. 4734, Nov. 2, 1994, amended this paragraph by inserting ", except" and all that follows through "breakfasts".

free or at a reduced price to children in school under the same terms and conditions as are set forth with respect to the service of lunches free or at a reduced price in section 9 of the Richard B. Russell National School Lunch Act [(42 U.S.C. 1758)]. [4–28]

(B) [4–29] The Secretary shall provide through State educational agencies technical assistance and training, including technical assistance and training in the preparation of foods high in complex carbohydrates and lower-fat versions of foods commonly used in the school breakfast program established under this section, to schools participating in the school breakfast program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A) and in providing appropriate meals to children with medically certified special dietary needs.

(2) At the option of a local school food authority, a student in a school under the authority that participates in the school breakfast program under this Act may be allowed to refuse not more than one item of a breakfast that the student does not intend to consume. A refusal of an offered food item shall not affect the full charge to the student for a breakfast meeting the requirements of this section or the amount of payments made under this Act to a school for the breakfast.

[(f)-(g) [4–30]]

DISBURSEMENT TO SCHOOLS BY THE SECRETARY

SEC. 5. [5–1] [42 U.S.C. 1774] (a) The Secretary shall withhold funds payable to a State under this Act and disburse the funds directly to schools or institutions within the State for the purposes authorized by this Act to the extent that the Secretary has so withheld and disbursed such funds continuously since October 1, 1980, but only to such extent (except as otherwise required by subsection (b)). Any funds so withheld and disbursed by the Secretary shall be

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[4–28] Section 9(b)(6)(A) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(6)(A)) provides that a child shall be considered automatically eligible for a free breakfast under this Act if the child is a member of a household receiving food stamps or is a family (under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines meets certain standards).

Section 13(a)(5) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(a)(5)) provides that eligible camps may receive reimbursement under the summer food service program for children only for meals served to children who meet the eligibility requirements for free or reduced price meals under such Act and the Child Nutrition Act of 1966.

[4–29] This subparagraph added by section 201(b)(2) of P.L. 103–448, 108 Stat. 4734, Nov. 2, 1994. Section 723(a) of P.L. 104–193, 110 Stat. 2302, Aug. 22, 1996, amended this subparagraph by striking the former second sentence (requiring the the Secretary to provide through State educational agencies additional technical assistance to schools that are having difficulty maintaining compliance with the requirements).

[4–30] Effective October 1, 1996, section 723(b)(1) of P.L. 104–193, 110 Stat. 2301, Aug. 22, 1996, repealed subsections (f) and (g). Subsection (f) was originally added by section 3 of P.L. 94–105, 89 Stat. 511, Oct. 7, 1975, and amended by section 817(d) of P.L. 97–35, 95 Stat. 532; section 121(2) of P.L. 101–147, 103 Stat. 891, Nov. 10, 1989; and section 201(c) of P.L. 103–448, 108 Stat. 4734, Nov. 2, 1994. Subsection (g) was originally added by section 121(3) of P.L. 101–147, 103 Stat. 892, Nov. 10, 1989, and amended by section 201(d) of P.L. 103–448, 108 Stat. 4734, Nov. 2, 1994.

[5–1] The original section 5 regarding food service equipment assistance repealed by section 805(b) of P.L. 97–35, 95 Stat. 527, Aug. 13, 1981. Section 817(e) of P.L. 97–35, 95 Stat. 532, Aug. 13, 1981, added a completely new section 5 authorizing the Secretary to directly administer certain activities under this Act. The prior food service equipment assistance provision was amended by section 2 of P.L. 91–248, 84 Stat. 208, May 14, 1970; sections 6(a)—(d) of P.L. 92–433, 86 Stat. 727, Sept. 26, 1972; section 5 of P.L. 93–326, 88 Stat. 287, June 30, 1974; section 18 of P.L. 94–105, 89 Stat. 525, Oct. 7, 1975; sections 4 and 20(3)—(4) of P.L. 95–166, 91 Stat. 1332, 1346, Nov. 10, 1977; section 6(b) of P.L. 95–627, 92 Stat. 3620, Nov. 10, 1978, and section 211 of P.L. 96–499, 94 Stat. 2603, Dec. 5, 1980.

used for the same purposes, and shall be subject to the same conditions, as applicable to a State disbursing funds made available under this Act. If the Secretary is administering (in whole or in part) any program authorized under this Act, the State in which the Secretary is administering the program may, upon request to the Secretary, assume administration of that program.

(b) If a State educational agency is not permitted by law to disburse the funds paid to it under this Act to any of the nonpublic schools in the State, the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to public schools within the State by the State educational agency.

PAYMENTS TO STATES

SEC. 6. [42 U.S.C. 1775] The Secretary shall certify to the Secretary of the Treasury from time to time the amounts to be paid to any State under sections 3 through 7 of this Act and the time or times such amounts are to be paid; and the Secretary of the Treasury shall pay to the State at the time or times fixed by the Secretary the amounts so certified.

STATE ADMINISTRATIVE EXPENSES

SEC. 7.[7–1] [42 U.S.C. 1776] (a)[7–2](1) Each fiscal year, the Secretary shall make available to the States for their administrative costs an amount equal to not less than 1½ percent of the Federal funds expended under sections 4, 11, and 17 of the Richard B. Russell National School Lunch Act [(42 U.S.C. 1753, 1759a, and 1766)] and sections 3 and 4[7–3] of this Act during the second preceding fiscal year. The Secretary shall allocate the funds so provided in accordance with paragraphs (2), (3), and (4) of this subsection. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

(2) The Secretary shall allocate to each State for administrative costs incurred in any fiscal year in connection with the programs

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[7–1] This section was completely revised by section 14 of P.L. 95–166, 91 Stat. 1338, Nov. 10, 1977. The section had previously been amended by section 4 of P.L. 90–302, 82 Stat. 119, May 8, 1968, and section 5 of P.L. 91–248, 84 Stat. 210, May 14, 1970. Section 201 of P.L. 96–499, 94 Stat. 2599, Dec. 5, 1980, provided that the amount of State administrative expense funds available to States under this section not be reduced as a result of the 2½ cent rate reductions required by that section for fiscal year 1981. Section 332 of P.L. 99–500, 100 Stat. 1783–363, Oct. 18, 1986, amended this section by striking out subsection (b), and by redesignating subsections (c) through (i) as subsections (b) through (h), respectively. Section 332 of P.L. 99–591, 100 Stat. 3341–367, Oct. 30, 1986, and section 4212 of P.L. 99–661, 100 Stat. 4075, Nov. 14, 1986, made the same revisions.

Title III of P.L. 100–460, 102 Stat. 2254, Oct. 1, 1988 provided that allocation of funds under this section contingent upon a State's agreement to participate in authorized studies and surveys and further provided that seriously deficient administration by a State entitled the Secretary to withhold some or all funds under this section and section 13(k)(1) of the Richard B. Russell National School Lunch Act until the programs were operated in an acceptable manner. These provisions have been codified at 42 U.S.C. 1776a and 1776b. Provisions similar to these sections were contained in the following prior Appropriations Acts: 1987—P.L. 100–202, § 101(k) [Title III], Dec. 22, 1987, 101 Stat. 1329–348; 1986—P.L. 99–500, Title I, § 101(a) [Title III, § 301], Oct. 18, 1986, 100 Stat. 1783–22; P.L. 99–591, Title I, § 101(a) [Title III, § 301], Oct. 30, 1986, 100 Stat. 3341–22; 1982—P.L. 97–370, Title III, § 301, Dec. 18, 1982, 96 Stat. 1805; 1981—P.L. 97–103, Title III, § 301, Dec. 23, 1981, 95 Stat. 1484; 1980—P.L. 96–528, Title III, § 301, Dec. 15, 1980, 94 Stat. 3112; 1979—P.L. 96–108, Title III, § 301, Nov. 9, 1979, 93 Stat. 837; 1979—P.L. 96–38, Title I, § 100, July 25, 1979, 93 Stat. 98.

[7–2] This subsection completely revised by section 7(a) of P.L. 95–627, 92 Stat. 3621, Nov. 10, 1978.

[7–3] Section 819(e) of P.L. 97–35, 95 Stat. 533, Aug. 13, 1981, deleted references to section 5 here and in subsection (a)(2) and former subsection (b).

authorized under the Richard B. Russell National School Lunch Act [(42 U.S.C. 1751 et seq.)] or under this Act, except for the programs authorized under section 13 or 17 of the Richard B. Russell National School Lunch Act [(42 U.S.C. 1761 or 1766)] or under section 17 of this Act, an amount equal to not less than 1 percent and not more than 1½ percent of the funds expended by each State under sections 4 and 11 of the Richard B. Russell National School Lunch Act [(42 U.S.C. 1753 and 1759a)] and sections 3 and 4 of this Act during the second preceding fiscal year. In no case shall the grant available to any State under this subsection be less than the amount such State was allocated in the fiscal year ending September 30, 1981,[7–4] or $100,000, whichever is larger.

(3) The Secretary shall allocate to each State for its administrative costs incurred under the program authorized by section 17 of the Richard B. Russell National School Lunch Act [(42 U.S.C. 1766)] in any fiscal year an amount, based upon funds expended under that program in the second preceding fiscal year, equal to (A) 20 percent of the first $50,000, (B) 10 percent of the next $100,000, (C) 5 percent of the next $250,000, and (D) 2½ percent of any remaining funds. If an agency in the State other than the State educational agency administers such program, the State shall ensure that an amount equal to no less than the funds due the State under this paragraph is provided to such agency for costs incurred by such agency in administering the program, except as provided in paragraph (5).[7–5] The Secretary may adjust any State's allocation to reflect changes in the size of its program.

(4) The remaining funds appropriated under this section shall be allocated among the States by the Secretary in amounts the Secretary determines necessary for the improvement in the States of the administration of the programs authorized under the Richard B. Russell National School Lunch Act [(42 U.S.C. 1751 et seq.)] and this Act, except for section 17 of this Act, including, but not limited to, improved program integrity and the quality of meals served to children.

(5)[7–6](A) Not more than 25 percent of the amounts made available to each State under this section for the fiscal year 1991 and 20 percent of the amounts made available to each State under this section for the fiscal year 1992 and for each succeeding fiscal year may remain available for obligation or expenditure in the fiscal year succeeding the fiscal year for which such amounts were appropriated.

(B)[7–7] REALLOCATION OF FUNDS.—

(i) RETURN TO SECRETARY.—For each fiscal year, any amounts appropriated that are not obligated or expended during the fiscal year and are not carried over for the succeeding fiscal year under subparagraph (A) shall be returned to the Secretary.

[7–4] "September 30, 1981" was substituted for "September 30, 1978" by section 814(a) of P.L. 97–35, 95 Stat. 531, Aug. 13, 1981.

[7–5] This sentence inserted by section 122(a)(1)(A) of P.L. 101–147, 103 Stat. 893, Nov. 10, 1989.

[7–6] Section 122(a)(1) of P.L. 101–147, 103 Stat. 893, Nov. 10, 1989, redesignated paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and inserted a new paragraph (5).

[7–7] Section 202(a) of P.L. 105–336, 112 Stat. 3158, Oct. 31, 1998, amended this subparagraph in its entirety. Previously, this subparagraph was amended by section 103 of P.L. 102–512, Oct. 24, 1992, and section 117(a)(2)(B) of P.L. 103–448, 108 Stat. 4717, Nov. 2, 1994.

(ii) REALLOCATION BY SECRETARY.—The Secretary shall allocate, for purposes of administrative costs, any remaining amounts among States that demonstrate a need for the amounts.

(6)[7–8] USE OF ADMINISTRATIVE FUNDS.—Funds available to a State under this subsection and under section 13(k)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(k)(1)) may be used by the State for the costs of administration of the programs authorized under this Act (except for the programs authorized under sections 17 and 21) and the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) without regard to the basis on which the funds were earned and allocated.

(7)[7–9] Where the Secretary is responsible for the administration of programs under this Act or the Richard B. Russell National School Lunch Act **[**(42 U.S.C. 1751 et seq.)**]**, the amount of funds that would be allocated to the State agency under this section and under section 13(k)(1) of the Richard B. Russell National School Lunch Act **[**(42 U.S.C. 1761(k)(1))**]** shall be retained by the Secretary for the Secretary's use in the administration of such programs.

(8)[7–10] In the fiscal year 1991 and each succeeding fiscal year, in accordance with regulations issued by the Secretary, each State shall ensure that the State agency administering the distribution of commodities under programs authorized under this Act and under the Richard B. Russell National School Lunch Act is provided, from funds made available to the State under this subsection, an appropriate amount of funds for administrative costs incurred in distributing such commodities. In developing such regulations, the Secretary may consider the value of commodities provided to the State under this Act and under the Richard B. Russell National School Lunch Act.

(9)[7–11](A) If the Secretary determines that the administration of any program by a State under this Act (other than section 17) or under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) (including any requirement to provide sufficient training, technical assistance, and monitoring of the child and adult care food program under section 17 of that Act (42 U.S.C. 1766)),[7–12] or compliance with a regulation issued pursuant to either of such Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under this section or under section 13(k)(1) or 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(k)(1) or 1766).

(B) On a subsequent determination by the Secretary that the administration of any program referred to in subparagraph (A), or

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[7–8] Section 202(b) of P.L. 105–336, 112 Stat. 3158, Oct. 31, 1998, amended this paragraph in its entirety. For redesignation, see note 7–6.

[7–9] For redesignation, see note 7–6.

[7–10] Paragraph (8) added by section 122(a)(1)(D) of P.L. 101–147, 103 Stat. 893, Nov. 10, 1989.

[7–11] This paragraph added by section 202(a) of P.L. 103–448, 108 Stat. 4737, Nov. 2, 1994.

[7–12] Section 243(j) of P.L. 106–224, 114 Stat. 420, June 20, 2000, amended this subparagraph by inserting after "the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.)" the following: "(including any requirement to provide sufficient training, technical assistance, and monitoring of the child and adult care food program under section 17 of that Act (42 U.S.C. 1766))".

compliance with the regulations issued to carry out the program, is no longer seriously deficient and is operated in an acceptable manner, the Secretary may allocate some or all of the funds withheld under such subparagraph.

(b) Funds paid to a State under subsection (a) of this section may be used to pay salaries, including employee benefits and travel expenses, for administrative and supervisory personnel; for support services; for office equipment; and for staff development.

(c) If any State agency agrees to assume responsibility for the administration of food service programs in nonprofit private schools or child care institutions that were previously administered by the Secretary, an appropriate adjustment shall be made in the administrative funds paid under this section to the State not later than the succeeding fiscal year.

(d)[7–13] Notwithstanding any other provision of law, funds made available to each State under this section shall remain available for obligation and expenditure by that State during the fiscal year immediately following the fiscal year for which such funds were made available. For each fiscal year the Secretary shall establish a date by which each State shall submit to the Secretary a plan for the disbursement of funds provided under this section for each such year, and the Secretary shall reallocate any unused funds, as evidenced by such plans, to other States as the Secretary considers appropriate.

(e)[7–14] Each State shall submit to the Secretary for approval by October 1 of the initial fiscal year a plan[7–15] for the use of State administrative expense funds, including a staff formula for State personnel, system level supervisory and operating personnel, and school level personnel. After submitting the initial plan, a State shall be required to submit to the Secretary for approval only a substantive change in the plan.[7–16]

(f)[7–17] Payments of funds under this section shall be made only to States that agree to maintain a level of funding out of State revenues, for administrative costs in connection with programs under this Act (except section 17 of this Act) and the Richard B. Russell National School Lunch Act **[**(42 U.S.C. 1751 et seq.)**]** (except section 13 of that Act **[**(42 U.S.C. 1761)**]**), not less than the amount expended or obligated in fiscal year 1977, and that agree to participate fully in any studies authorized by the Secretary.[7–18]

[7–13] Section 814(b) of P.L. 97–35, 95 Stat. 531, Aug. 13, 1981, substituted provisions relating to general availability of unobligated funds during fiscal years following the fiscal years for which such funds were made available, for provisions relating to availability of unobligated funds for fiscal year 1979 and for the five succeeding fiscal years. Section 201(b)(1) of P.L. 96–499, 94 Stat. 2600, Dec. 5, 1980, substituted "and for the five succeeding fiscal years" for "and the succeeding fiscal year" in the prior provision.

[7–14] Section 724(a) of P.L. 104–193, 110 Stat. 2302, Aug. 22, 1996, amended this section by striking former subsections (e) and (h) by redesignating former subsections (f), (g), and (i) as subsections (e), (f), and (g), respectively. Previously, section 202(c) of P.L. 103–448, 108 Stat. 4737, Nov. 2, 1994, inserted former subsection (h).

[7–15] Section 724(b)(1) of P.L. 104–193, 110 Stat. 2302, Aug. 22, 1996, amended subsection (e) by striking "each year an annual plan" and inserting "the initial fiscal year a plan".

[7–16] This sentence added by section 724(b)(2) of P.L. 104–193, 110 Stat. 2302, Aug. 22, 1996.

[7–17] See note 7–14.

[7–18] Section 122(a)(2) of P.L. 101–147, 103 Stat. 894, Nov. 10, 1989, inserted ", and that agree to participate fully in any studies authorized by the Secretary".

(g)[7–19] For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, 2003,[7–20] there are hereby authorized to be appropriated such sums as may be necessary for the purposes of this section.

UTILIZATION OF FOODS

SEC. 8. [42 U.S.C. 1777] Each school participating under section 4 of this Act shall, insofar as practicable, utilize in its program foods designated from time to time by the Secretary as being in abundance, either nationally or in the school area, or foods donated by the Secretary. Foods available under section 416 of the Agricultural Act of 1949 (63 Stat. 1058[; 7 U.S.C. 1431]), as amended, or purchased under section 32 of the Act of August 24, 1935 (49 Stat. 774[; 7 U.S.C. 612c]), as amended, or section 709 of the Food and Agriculture Act of 1965 (79 Stat. 1212[; 7 U.S.C. 1446a-1]), may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in their feeding programs under this Act.[8–1]

NONPROFIT PROGRAMS

SEC. 9. [42 U.S.C. 1778] The food and milk service programs in schools and nonprofit institutions receiving assistance under this Act shall be conducted on a nonprofit basis.

[7–19] See note 7–14.

[7–20] Section 122(a)(3) of P.L. 101–147, 103 Stat. 894, Nov. 10, 1989, amended this subsection by striking "For" and all that follows through "1989," and inserting "For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, 1994,". Section 202(b) of P.L. 103–448, 108 Stat. 4737, Nov. 2, 1994, amended this subsection by striking "1994" and inserting "1998". Section 202(c) of P.L. 105–336, 112 Stat. 3158, Oct. 31, 1998, amended this subsection by striking "1998" and inserting "2003".

Previously, section 313 of P.L. 99–500, 100 Stat. 1783–360, Oct. 18, 1986, amended this subsection by striking out "1984" and inserting in lieu thereof "1989". Section 313 of P.L. 99–591, 100 Stat. 3341–362, Oct. 30, 1986, and section 4103 of P.L. 99–661, 100 Stat. 4071, Nov. 14, 1986, made the same revision.

Previously, section 201(b)(2) of P.L. 96–499, 94 Stat. 2600, Dec. 5, 1980, had substituted "September 30, 1984" for "September 30, 1980".

[8–1] Section 211(a) of the Agricultural Trade Suspension Adjustment Act of 1980 (7 U.S.C. 4004(a)) permits the Secretary of Agriculture to distribute agricultural commodities to community food banks through the food distribution system used under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

Section 6(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(a)) provides that certain funds appropriated to carry out such Act and the Child Nutrition Act of 1966 may be expended by the Secretary of Agriculture for agricultural commodities and other foods to be distributed among the States, schools, and service institutions participating in the food service programs under such Acts.

Section 6(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(d)) prohibits the Secretary from offering commodity assistance based on the number of breakfasts served to children under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

Section 14(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1762a(a)(1)) requires the Secretary of Agriculture to use certain funds to purchase agricultural commodities and products to maintain the annually programmed level of assistance under the Child Nutrition Act of 1966.

Section 14(d) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1762a(d)) requires the Secretary of Agriculture to establish certain procedures to purchase agricultural commodities and products to carry out the Child Nutrition Act of 1966.

Section 16(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1765(a)) permits certain States, for purposes of programs authorized under the Child Nutrition Act of 1966, to receive cash payments in lieu of donated foods.

Section 7 of the joint resolution entitled "Joint Resolution to assure that every needy schoolchild will receive a free or reduced price lunch as required by section 9 of the Richard B. Russell National School Lunch Act", approved November 5, 1971 (85 Stat. 420; 42 U.S.C. 1773 note) grants the Secretary of Agriculture additional authority to transfer funds from section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) to assist schools which demonstrate a need for additional funds in the school breakfast program.

REGULATIONS

SEC. 10.[10–1] [42 U.S.C. 1779] (a)[10–2] The Secretary shall prescribe such regulations as the Secretary[10–3] may deem necessary to carry out this Act and the Richard B. Russell National School Lunch Act [(42 U.S.C. 1751 et seq.)], including regulations relating to the service of food in participating schools and service institutions in competition with the programs authorized under this Act and the Richard B. Russell National School Lunch Act.[10–4]

(b)[10–5] The regulations shall not prohibit the sale of competitive foods approved by the Secretary[10–6] in food service facilities or areas during the time of service of food under this Act or the Richard B. Russell National School Lunch Act if the proceeds from the sales of such foods will inure to the benefit of the schools or of organizations of students approved by the schools.

(c)[10–7] In such regulations the Secretary may provide for the transfer of funds by any State between the programs authorized under this Act and the Richard B. Russell National School Lunch Act on the basis of an approved State plan of operation for the use of the funds and may provide for the reserve of up to 1 per centum of the funds available for apportionment to any State to carry out special developmental projects.

PROHIBITIONS

SEC. 11. [42 U.S.C. 1780] (a) In carrying out the provisions of sections 3 and 4[11–1] of this Act, the Secretary shall not[11–2] impose any requirements with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction.

(b) The value of assistance to children under this Act shall not be considered to be income or resources for any purpose under any Federal or State laws including, but not limited to, laws relating to taxation, welfare, and public assistance programs. Expenditures of funds from State and local sources for the maintenance of food pro-

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[10–1] Section 11(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(b)) prescribes, except as provided in section 10 of the Child Nutrition Act of 1966 (42 U.S.C. 1779), the use of special-assistance payments by State agencies.

Section 17(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(b)) bases the maximum for cash assistance provided under the child care food program, in part, on the amount of funds used by a State under section 10 of the Child Nutrition Act of 1966 (42 U.S.C. 1779).

[10–2] Section 203(1) and (2) of P.L. 103–448, 108 Stat. 4738, Nov. 2, 1994, designated the first, second, and third sentences as subsections (a), (b), and (c), respectively, and indented the margins of subsections (b) and (c) so as to align with the margins of subsection (b) of section 11.

[10–3] Section 323 of P.L. 101–147, 103 Stat. 916, Nov. 10, 1989, amended this sentence by striking "he" and inserting "the Secretary".

[10–4] Section 8 of P.L. 91–248, 84 Stat. 212, May 14, 1970, added the last portion of this sentence beginning with "and the Richard B. Russell National School Lunch Act" (the first time it appears).

[10–5] This sentence added by section 7 of P.L. 92–433, 86 Stat. 729, Sept. 26, 1972. For designation as subsection (b), see note 10–2. Section 725 of P.L. 104–193, 110 Stat. 2302, Aug. 22, 1996, struck former paragraphs (2) through (4). Former paragraphs (2), (3), and (4) originally added by section 203(3) of P.L. 103–448, 108 Stat. 4738, Nov. 2, 1994.

[10–6] Section 17 of P.L. 95–166, 91 Stat. 1345, Nov. 10, 1977, added "approved by the Secretary".

[10–7] This sentence added by section 8 of P.L. 91–248, 84 Stat. 212, May 14, 1970. For designation as subsection (c), see note 10–2.

[11–1] Section 819(f) of P.L. 97–35, 95 Stat. 533, Aug. 13, 1981, deleted reference to section 5.

[11–2] Section 726 of P.L. 104–193, 110 Stat. 2302, Aug. 22, 1996, amended subsection (a) by striking "neither the Secretary nor the State shall" and inserting "the Secretary shall not".

grams for children shall not be diminished as a result of funds received under this Act. [11–3]

PRESCHOOL PROGRAMS

SEC. 12. [42 U.S.C. 1781] The Secretary may extend the benefits of all school feeding programs conducted and supervised by the Department of Agriculture to include preschool programs operated as part of the school system.

CENTRALIZATION OF ADMINISTRATION

SEC. 13. [42 U.S.C. 1782] Authority for the conduct and supervision of Federal programs to assist schools in providing food service programs for children is assigned to the Department of Agriculture. To the extent practicable, other Federal agencies administering programs under which funds are to be provided to schools for such assistance shall transfer such funds to the Department of Agriculture for distribution through the administrative channels and in accordance with the standards established under this Act and the Richard B. Russell National School Lunch Act [(42 U.S.C. 1751 et seq.)].

APPROPRIATIONS FOR ADMINISTRATIVE EXPENSE [14–1]

SEC. 14. [42 U.S.C. 1783] There are [14–2] hereby authorized to be appropriated for any fiscal year such sums as may be necessary to the Secretary for the Secretary's [14–3] administrative expense under this Act.

MISCELLANEOUS PROVISIONS AND DEFINITIONS

SEC. 15. [15–1] [42 U.S.C. 1784] For the purposes of this Act— [15–2]

(1) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands. [15–3]

[11–3] Section 245A(h)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(4)(B)) exempts assistance provided under the Child Nutrition Act of 1966 from the temporary disqualification of newly legalized aliens from receiving certain public welfare assistance.

[14–1] Section heading for section 14 inserted by section 324(a) of P.L. 101–147, 103 Stat. 917, Nov. 10, 1989.

[14–2] Section 324(b)(1) of P.L. 101–147, 103 Stat. 917, Nov. 10, 1989, amended section 14 by striking "is" and inserting "are".

[14–3] Section 324(b)(2) of P.L. 101–147, 103 Stat. 917, Nov. 10, 1989, amended section 14 by striking "his" and inserting "the Secretary's".

[15–1] This section amended by section 17(b) of P.L. 94–105, 89 Stat. 525, Oct. 7, 1975, which deleted paragraph (c) (definition of "nonprofit private schools") and redesignated paragraphs (d) and (e) as (c) and (d), respectively.

Section 325(2) of P.L. 101–147, 103 Stat. 917, Nov. 10, 1989, amended section 15 by redesignating subsections (a) through (f) as paragraphs (1) through (6), respectively.

[15–2] Clauses (B) and (C) of the second sentence of section 13(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1761(a)(1)) uses the school breakfast program under the Child Nutrition Act of 1966 to define certain terms for purposes of the summer food service program for children.

[15–3] Section 15(c) of P.L. 94–105, 89 Stat. 522, Oct. 7, 1975, substituted "American Samoa, or the Trust Territory of the Pacific Islands" for "or American Samoa". Section 727(1) of P.L. 104–193, 110 Stat. 2302, Aug. 22, 1996, amended paragraph (1) by striking "the Trust Territory of the Pacific Islands" and inserting "the Commonwealth of the Northern Mariana Islands".

(2) [15–4] "State educational agency" means, as the State legislature may determine, (A) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer), or (B) a board of education controlling the State department of education.

(3) [15–5] "School" means (A) any public or nonprofit private school of high school grade or under, including kindergarten and preschool programs operated by such school, and (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded, but excluding Job Corps Centers funded by the Department of Labor). [15–6] For purposes of clauses (A) and (B) of this paragraph, the term "nonprofit", when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1986. [15–7]

(4) [15–8] "Secretary" means the Secretary of Agriculture.

(5) [15–9] "School year" means the annual period from July 1 through June 30.

(6) [15–10] Except as used in section 17 of this Act, the terms "child" and "children" as used in this Act, shall be deemed to

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[15–4] Section 325 of P.L. 101–147, 103 Stat. 917, Nov. 10, 1989, amended this paragraph (1) by redesignating former paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and (2) by redesignating former subsection (b) as paragraph (2).

[15–5] This definition completely revised by section 17(b) of P.L. 94–105, 89 Stat. 525, Oct. 7, 1975.

For redesignation, see note 15–1.

[15–6] Section 212 of P.L. 96–499, 94 Stat. 2603, Dec. 7, 1980, added the phrase ", but excluding Job Corps Centers funded by the Department of Labor". Section 727(2) of P.L. 104–193, 110 Stat. 2302, Aug. 22, 1996, struck ", and (C) with respect to the Commonwealth of Puerto Rico, nonprofit child care centers certified as such by the Governor of Puerto Rico".

[15–7] Section 808(b) of P.L. 97–35, 95 Stat. 527, Aug. 13, 1981, added exception for nonprofit private schools whose average yearly tuition exceeds $1,500.00 per child. Section 325(b) of P.L. 99–500, 100 Stat. 1783–361, Oct. 18, 1986, and section 325(b) of P.L. 99–591, 100 Stat. 3341–364, Oct. 30, 1986, deleted the phrase "except private schools whose average yearly tuition exceeds $1,500 per child". This provision was effective July 1, 1987, under section 325(c) of both acts. Section 4205(a) of P.L. 99–661, 100 Stat. 4072, Nov. 14, 1986, substituted "2,000" for "1,500" and added after the first sentence the following: "On July 1, 1988, and each July 1 thereafter, the Secretary shall adjust the tuition limitation amount prescribed in clause (A) of the first sentence of this paragraph to reflect changes in the Consumer Price Index for All Urban Consumers during the most recent 12-month period for which the data is available." Title I, chapter X, P.L. 100–71, 101 Stat. 429, July 11, 1987, substantially revised this section, removing the tuition limitation and the sentence added by P.L. 99–661. P.L. 100–71 also substituted "Corps" for "Corp" in subsection (b) and "nonprofit" for "non-profit" in subsection (c).

Section 325(3) of P.L. 101–147, 103 Stat. 917, Nov. 10, 1989, amended paragraph (3) by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986".

Clause (2)(B) of the last sentence of section 17(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(a)) prohibits an institution from participating in the child care food program if it has been seriously deficient in the operation of any program under the Child Nutrition Act of 1966.

Section 13(3)(A) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237) defines "recipient agency", for purposes of such Act, to include a school authorized under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) to operate breakfast programs or similar programs and to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase.

[15–8] For redesignation, see note 15–1.

[15–9] This definition added by section 20(5) of P.L. 95–166, 91 Stat. 1346, Nov. 10, 1977. Section 10(c) of P.L. 95–627, 92 Stat. 3624, Nov. 10, 1978, amended the definition of school year to mean the annual period from July 1 through July 30.

For redesignation, see note 15–1.

[15–10] Section 10(d)(3) of P.L. 95–627, 92 Stat. 3624, Nov. 10, 1978, added paragraph (6) (formerly subsection (f)).

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include persons regardless of age who are determined by the State educational agency, in accordance with regulations prescribed by the Secretary, to have 1 or more disabilities [15–11] and who are attending any nonresidential public or nonprofit private school of high school grade or under for the purpose of participating in a school program established for individuals with disabilities. [15–12]

(7) [15–13] DISABILITY.—The term "disability" has the meaning given the term in the Rehabilitation Act of 1973 for purposes of title II of that Act (29 U.S.C 760 et seq.).

ACCOUNTS AND RECORDS

SEC. 16. [16–1] **[**42 U.S.C. 1785**]** (a) States, State educational agencies, schools, and nonprofit institutions participating in programs under this Act shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this Act and the regulations hereunder. Such accounts and records shall be available at any reasonable time [16–2] for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of three years, as the Secretary determines is necessary. [16–3]

(b) [16–4] With regard to any claim arising under this Act or under the Richard B. Russell National School Lunch Act **[**(42 U.S.C. 1751 et seq.)**]**, the Secretary shall have the authority to determine the amount of, to settle and to adjust any such claim, and to compromise or deny such claim or any part thereof. The Secretary shall also have the authority to waive such claims if the Secretary determines that to do so would serve the purposes of either such Act. Nothing contained in this subsection shall be construed to diminish the authority of the Attorney General of the United States under section 516 of title 28, United States Code, to conduct litigation on behalf of the United States.

For redesignation, see note 15–1.

[15–11] Section 325(4)(A) of P.L. 101–147, 103 Stat. 917, Nov. 10, 1989, amended paragraph (6) by striking "to be mentally or physically handicapped" and inserting "to have 1 or more mental or physical handicaps". Section 107(j)(3)(D)(i) of P.L. 105–336, 112 Stat. 3153, Oct. 31, 1998, amended this paragraph by striking "mental or physical handicaps" each place it appears and inserting "disabilities".

[15–12] Section 325(4)(B) of P.L. 101–147, 103 Stat. 917, Nov. 10, 1989, amended paragraph (6) by striking "for mentally or physically handicapped" and inserting "for individuals with mental or physical handicaps". See note 15–11.

[15–13] Section 107(j)(3)(D)(ii) of P.L. 105–336, 112 Stat. 3153, Oct. 31, 1998, added paragraph (7).

[16–1] Section 16 redesignated as section 16(a) by section 816 of P.L. 97–35, 95 Stat. 531, Aug. 13, 1981.

[16–2] Section 728 of P.L. 104–193, 110 Stat. 2302, Aug. 22, 1996, amended this sentence by striking "at all times be available" and inserting "be available at any reasonable time".

[16–3] Section 12(h) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(h)) provides that no provision of such Act or the Child Nutrition Act of 1966 shall require any school receiving funds under such Acts to account separately for the cost incurred in the school lunch and school breakfast programs.

[16–4] Section 816 of P.L. 97–35, 95 Stat. 531, Aug. 13, 1981, added this subsection.

Section 12(g) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(g)) prescribes a penalty for stealing funds or property which are the subject of a grant or other form of assistance under the Child Nutrition Act of 1966.

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN [17–1]

SEC. 17. [17–2] [42 U.S.C. 1786] (a) Congress finds that substantial numbers of pregnant, postpartum, and breastfeeding women,

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[17–1] Section heading completely revised by section 204(w)(1) of P.L. 103–448, 108 Stat. 4745, Nov. 2, 1994.

[17–2] This section completely revised by section 3 of P.L. 95–627, 92 Stat. 3611, Nov. 10, 1978, which also provided in section 13(b) that the current regulations would remain effective until regulations implementing these amendments were issued. The original section added by section 9 of P.L. 92–433, 86 Stat. 729, Sept. 26, 1972; revised by section 6 of P.L. 93–150, 87 Stat. 563, Nov. 7, 1973, and section 6 of P.L. 93–326, 88 Stat. 287, June 30, 1974, P.L. 94–28, 89 Stat. 96, May 28, 1975; extensively amended by section 14 of P.L. 94–105, 89 Stat. 518, Oct. 7, 1975; and again revised by sections 18 and 20(6) of P.L. 95–166, 91 Stat. 1345, 1346, Nov. 10, 1977.

Section 123(e) of P.L. 101–147, 103 Stat. 905, Nov. 10, 1989, provides that, in implementing and monitoring compliance with the provisions of the amendments made by section 123 of P.L. 101–147 (other than the amendment made by section 123(a)(2) of P.L. 101–147 to section 17(d)(2) of this Act), the Secretary shall not impose any new requirement on a State or local agency that would require the State or local agency to place additional paperwork or documentation in a case file maintained by a local agency.

Section 12(g)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2021(g)(1)) requires the Secretary to issue regulations providing criteria for the disqualification under the Food Stamp Act of 1977 of an approved retail food store or a wholesale food concern that is disqualified from accepting benefits under the special supplemental nutrition program for women, infants, and children established under this section.

Section 1060a of title 10, United States Code, requires the Secretary of Defense to carry out a program to provide special supplemental food benefits to members of the armed forces on duty at stations outside the United States and requires that payments, commodities, and eligibility for benefits under the program are the same as the program under this section.

Section 2501(c)(1)(C) of the Children's Health Act of 2000 (42 U.S.C. 247 note; Public Law 106–310) requires the Director of the Centers for Disease Control and Prevention to assist with the improvement of the ability of State-based data management systems and federally-funded means-tested public benefit programs (including the special supplemental food program for women, infants and children (WIC) under this section) to respond to ad hoc inquiries and generate progress reports regarding the lead blood level screening of children enrolled in this program.

Section 317O(b)(2)(C) of the Public Health Service Act (42 U.S.C. 247b–16(b)(2)(C)) requires a State to identify in the application for a grant under that section how the State will coordinate operations and activities under the grant with the program of assistance under the special supplemental nutrition program for women, infants and children (WIC) under this section.

Section 399(b)(6) of the Public Health Service Act (42 U.S.C. 280c–4(b)(6)) requires that certain home visiting services, including assistance provided under this section, be made available to eligible families in each project operated with a grant.

Section 399L(b)(2)(C) of the Public Health Service Act (42 U.S.C. 280g(b)(2)(C)) requires an eligible entity to identify in the plan submitted as part of an application for a grant under that section how the entity will coordinate operations and activities under the grant with the program of assistance under the special supplemental nutrition program for women, infants and children (WIC) under this section.

Section 399W(b)(2) of the Public Health Service Act (42 U.S.C. 280h(b)(2)) provides that, to be eligible to receive a grant under that section, a State or political subdivision of a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a plan that describes the manner in which the applicant shall coordinate with appropriate State and local authorities, such as State directors of programs under this section.

Section 1920A of the Social Security Act (42 U.S.C. 1396r–1a) permits certain State plans to provide for making medical assistance with respect to health care items and services covered under the State plans available to a child during a presumptive eligibility period that begins on the date a qualified entity determines, inter alia, that an infant or child is eligible to receive assitance under this section, and ends on a specified date.

Section 17(s)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(s)(1)) requires the Secretary to provide to each State agency administering a child and adult care food program under section 17 of that Act with information concerning the special supplemental nutrition program for women, infants, and children authorized under this section.

Section 203(r) of P.L. 105–336, 112 Stat. 3166, Oct. 31, 1998, requires the Secretary to conduct a study on the effect of cost containment practices established by States under the special supplemental nutrition program for women, infants, and children authorized under this section for the selection of vendors and approved food items (other than infant formula) on various factors and submit to the Committee on Education and the Workforce

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infants, and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. It is, therefore, the purpose of the program authorized by this section to provide, up to the authorization levels set forth in subsection (g) of this section, supplemental foods and nutrition education through any eligible local agency that applies for participation in the program. The program shall serve as an adjunct to good health care, during critical times of growth and development, to prevent the occurrence of health problems, including drug abuse,[17–3] and improve the health status of these persons.

(b)[17–4] As used in this section—

(1) "Breastfeeding women" means women up to one year postpartum who are breastfeeding their infants.

(2) "Children" means persons who have had their first birthday but have not yet attained their fifth birthday.

(3) "Competent professional authority" means physicians, nutritionists, registered nurses, dietitians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials, in accordance with standards prescribed by the Secretary, as being competent professionally to evaluate nutritional risk.

(4) 'Costs of nutrition services and administration' or 'nutrition services and administration' means[17–5] costs that shall include, but not be limited to, costs for certification of eligibility of persons for participation in the program (including centrifuges, measuring boards, spectrophotometers, and scales used for the certification), food delivery, monitoring, nutrition education, outreach, startup costs, and general administration applicable to implementation of the program under this section, such as the cost of staff, transportation, insurance, developing and printing food instruments, and administration of State and local agency offices.

(5) "Infants" means persons under one year of age.

(6)[17–5A] "Local agency" means a public health or welfare agency or a private nonprofit health or welfare agency, which, directly or through an agency or physician with which it has contracted, provides health services. The term shall include an

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of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an interim report on the study not later than Oct. 31, 2000, and a final report on the study not later than Oct. 31. 2001.

Section 203(s) of P.L. 105–336, 112 Stat. 3167, Oct. 31, 1998, requires the Comptroller General of the United States to conduct a study of WIC services and submit a report on the study to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than Oct. 31, 2001.

[17–3] Section 3201(1) of P.L. 100–690, 102 Stat. 4246, Nov. 18, 1988, added the phrase "including drug abuse,".

[17–4] Section 341(a) of P.L. 99–500, 100 Stat. 1783–364, Oct. 18, 1986, amended this section by striking out paragraph (1) (defining "administrative costs"); redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively; and by inserting a new paragraph (4). Section 341(a) of P.L. 99–591, 100 Stat. 3341–367, Oct. 30, 1986, and section 4301(a) of P.L. 99–500, 100 Stat. 4075, Nov. 14, 1986, made the same amendments.

Section 1060a(f) of title 10, United States Code, incorporates the definitions of "nutrition education" and "supplemental foods" from this subsection.

[17–5] Effective October 1, 2000, section 242(b)(2)(A) of P.L. 106–224, 114 Stat. 412, June 20, 2000, amended this paragraph by striking "(4)" and all that follows through "means" and inserting "(4) 'Costs of nutrition services and administration' or 'nutrition services and administration' means".

[17–5A] Sec. 4302(2)(A)(ii) of the Elementary and Secondary Education Act of 1965 includes clinics under this para. in the defintion of "children's services" under part C of title IV of that Act (relating to environmental tobacco smoke).

Indian tribe, band, or group recognized by the Department of the Interior, the Indian Health Service of the Department of Health and Human Services, or an intertribal council or group that is an authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior. [17–6]

(7) "Nutrition education" means individual or group sessions and the provision of materials designed to improve health status that achieve positive change in dietary habits, and emphasize relationships between nutrition and health, all in keeping with the individual's personal, cultural, and socioeconomic preferences.

(8) "Nutritional risk" means (A) detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements, (B) other documented nutritionally related medical conditions, (C) dietary deficiencies that impair or endanger health, (D) [17–7] conditions that directly affect the nutritional health of a person, such as alcoholism or drug abuse, or (E) [17–8] conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, including, but not limited to, homelessness and [17–9] migrancy. [17–10]

(9) "Plan of operation and administration" means a document that describes the manner in which the State agency intends to implement and operate the program.

(10) "Postpartum women" means women up to six months after termination of pregnancy.

(11) "Pregnant women" means women determined to have one or more fetuses in utero.

(12) "Secretary" means the Secretary of Agriculture.

(13) "State agency" means the health department or comparable agency of each State; an Indian tribe, band, or group recognized by the Department of the Interior; an intertribal council or group that is the authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior; or the Indian Health Service of the Department of Health and Human Services.

(14) "Supplemental foods" means those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding, and pospartum women, infants, and children, as prescribed by the Secretary. State agencies may, with the approval of the Secretary, substitute different foods providing the nutritional equivalent of foods prescribed by the Secretary, to allow for different cultural eating patterns.

[17–6] Section 1042(2) of the Pro-Children Act of 1994 (20 U.S.C. 6082(2)) includes within the definition of "children's services", for purposes of part C of title X of such Act (relating to environmental tobacco smoke), the provision of certain services that are administered by the Secretary of Agriculture in the case of a clinic (as defined in 7 CFR 246.2) under section 17(b)(6) of this Act, but excludes facilities (other than clinics) where coupons are redeemed under this Act.

[17–7] Section 204(a)(1) and (2) of P.L. 103–448, 108 Stat. 4738, Nov. 2, 1994, redesignated former subparagraph (D) as subparagraph (E) and inserted new subparagraph (D).

[17–8] See note 17–7.

[17–9] Section 204(a)(3) of P.L. 103–448, 108 Stat. 4738, Nov. 2, 1994, amended this subparagraph by striking "alcoholism and drug addiction, homelessness, and" and inserting "homelessness and".

[17–10] Section 204 of P.L. 102–342, 106 Stat. 911, Aug. 14, 1992, amended this subparagraph by inserting before the period the following: ", homelessness, and migrancy".

(15) [17–11] "Homeless individual" means—

(A) an individual who lacks a fixed and regular nighttime residence; or

(B) an individual whose primary nighttime residence is—

(i) a supervised publicly or privately operated shelter (including a welfare hotel or congregate shelter) designed to provide temporary living accommodations;

(ii) an institution that provides a temporary residence for individuals intended to be institutionalized;

(iii) a temporary accommodation of not more than 365 days [17–12] in the residence of another individual; or

(iv) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(16) [17–13] "Drug abuse education" means—

(A) the provision of information concerning the dangers of drug abuse; and

(B) the referral of participants who are suspected drug abusers to drug abuse clinics, treatment programs, counselors, or other drug abuse professionals.

(17) [17–14] "Competitive bidding" means a procurement process under which the Secretary or a State agency selects a single source (a single infant formula manufacturer) offering the lowest price, as determined by the submission of sealed bids, for a product for which bids are sought for use in the program authorized by this section.

(18) [17–15] "Rebate" means the amount of money refunded under cost containment procedures to any State agency from the manufacturer or other supplier of the particular food product as the result of the purchase of the supplemental food with a voucher or other purchase instrument by a participant in each such agency's program established under this section.

(19) [17–16] "Discount" means, with respect to a State agency that provides program foods to participants without the use of retail grocery stores (such as a State that provides for the home delivery or direct distribution of supplemental food), the amount of the price reduction or other price concession provided to any State agency by the manufacturer or other supplier of the particular food product as the result of the purchase of program food by each such State agency, or its representative, from the supplier.

[17–11] Section 212(a) of P.L. 100–435, 102 Stat. 1657, Sept. 19, 1988, added a new paragraph (15) defining "Homeless individual".

[17–12] Section 729(a)(1) of P.L. 104–193, 110 Stat. 2303, Aug. 22, 1996, amended this clause by inserting "of not more than 365 days" after "accommodation".

[17–13] Section 3201(2) of P.L. 100–690, 102 Stat. 4246, Nov. 18, 1988, added a new paragraph (16) defining "Drug abuse education". Section 729(a)(2) of P.L. 104–193, 110 Stat. 2303, Aug. 22, 1996, struck former subparagraph (C).

[17–14] Paragraph (17) was originally added by section 123(a)(1) of P.L. 101–147, 103 Stat. 894, Nov. 10, 1989. Section 203 of P.L. 102–512, Oct. 24, 1992, completely revised paragraph (17) and added paragraphs (18) through (20). Section 209 of P.L. 102–512, Oct. 24, 1992, provided that the authority provided by title II of P.L. 102–512 and the amendments made by such title (except with regard to section 17(h)(8)(J)) terminates on September 30, 1994. Effective October 1, 1994, section 204(o)(2) of P.L. 103–448, 108 Stat. 4742, Nov. 2, 1994, repealed section 209 of P.L. 102–512. Although the repeal of such section 209 is effective after the amendments made by such section 209 terminate, the repeal is treated as effective to effectuate the probable intent of Congress.

[17–15] See note 17–14.

[17–16] See note 17–14.

(20) [17–17] "Net price" means the difference between the manufacturer's wholesale price for infant formula and the rebate level or the discount offered or provided by the manufacturer under a cost containment contract entered into with the pertinent State agency.

(21) [17–18] REMOTE INDIAN OR NATIVE VILLAGE.—The term "remote Indian or Native village" means an Indian or Native village that—

(A) is located in a rural area;

(B) has a population of less than 5,000 inhabitants; and

(C) is not accessible year-around by means of a public road (as defined in section 101 of title 23, United States Code).".

(c) [17–19](1) The Secretary may carry out a special supplemental nutrition program [17–20] to assist State agencies through grants-in-aid and other means to provide, through local agencies, at no cost, supplemental foods and nutrition education to low-income pregnant, postpartum, and breastfeeding women, infants, and children who satisfy the eligibility requirements specified in subsection (d) of this section. The program shall be supplementary to—

(A) the food stamp program;

(B) any program under which foods are distributed to needy families in lieu of food stamps; and

(C) receipt of food or meals from soup kitchens, or shelters, or other forms of emergency food assistance. [17–21]

(2) Subject to amounts appropriated to carry out this section under subsection (g) [17–22]—

(A) the Secretary shall make cash grants to State agencies for the purpose of administering the program, and

(B) any State agency approved eligible local agency that applies to participate in or expand the program under this section shall immediately be provided with the necessary funds to carry out the program.

(3) Nothing in this subsection shall be construed to permit the Secretary to reduce ratably the amount of foods that an eligible local agency shall distribute under the program to participants. The Secretary shall take affirmative action to ensure that the program

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[17–17] See note 17–14.

[17–18] Paragraph (21) added by section 244(a) of P.L. 106–224, 114 Stat. 421, June 20, 2000.

[17–19] Section 729(b) of P.L. 104–193, 110 Stat. 2303, Aug. 22, 1996, struck former paragraph (5) of this subsection. Paragraph (5) originally added by section 204(b) of P.L. 103–448, 108 Stat. 4738, Nov. 2, 1994.

[17–20] Section 204(w)(1)(B) of P.L. 103–448, 108 Stat. 4746, Nov. 2, 1994, amended this paragraph by striking "special supplemental food program" and inserting "special supplemental nutrition program".

Section 204(w)(3) of P.L. 103–448, 108 Stat. 4746, Nov. 2, 1994, provides that any reference to the special supplemental food program established under this section in any provision of law, regulation, document, record, or other paper of the United States shall be considered to be a reference to the special supplemental nutrition program established under this section.

[17–21] Section 212(b) of P.L. 100–435, 102 Stat. 1658, Sept. 19, 1988, amended this sentence by designating existing language as clauses (A) and (B) and adding clause (C).

[17–22] Section 203(d)(1) of P.L. 96–499, 94 Stat. 2601, Dec. 5, 1980, amended this paragraph by striking reference to fiscal years 1981 and 1982 and inserting instead reference to fiscal year 1981 and each succeeding fiscal year through September 30, 1984. Section 314(1) of P.L. 99–500, 100 Stat. 1783–360, Oct. 18, 1986, further amended this subsection by striking reference to specific fiscal years 1981–1984 and inserting instead "Subject to amounts appropriated to carry out this section under subsection (g)". Section 314(1) of P.L. 99–591, 100 Stat. 3341–363, Oct. 30, 1986, and section 4104(1) of P.L. 99–661, 100 Stat. 4071, Nov. 14, 1986, made the same revision.

is instituted in areas most in need of supplemental foods. The existence of a commodity supplemental food program under section 4 of the Agriculture and Consumer Protection Act of 1973 [17–23] [(7 U.S.C. 612c note)] shall not preclude the approval of an application from an eligible local agency to participate in the program under this section nor the operation of such program within the same geographic area as that of the commodity supplemental food program, but the Secretary shall issue such regulations as are necessary to prevent dual receipt of benefits under the commodity supplemental food program and the program under this section.

(4) [17–24] A State shall be ineligible to participate in programs authorized under this section if the Secretary determines that State or local sales taxes are collected within the State on purchases of food made to carry out this section.

(d) [17–25](1) Participation in the program under this section shall be limited to pregnant, postpartum, and breastfeeding women, infants, and children from low-income families who are determined by a competent professional authority to be at nutritional risk.

(2) [17–26](A) The Secretary shall establish income eligibility standards to be used in conjunction with the nutritional risk criteria in determining eligibility of individuals for participation in the program. Any individual at nutritional risk shall be eligible for the program under this section only if such individual—

(i) is a member of a family with an income that is less than the maximum income limit prescribed under section 9(b) of the Richard B. Russell National School Lunch Act for free and reduced price meals;

(ii)(I) receives food stamps under the Food Stamp Act of 1977; or

(II) is a member of a family that receives assistance under the State program funded [17–27] established under part A of title IV of the Social Security Act that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are com-

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[17–23] Section 326(b)(1) of P.L. 101–147, 103 Stat. 918, Nov. 10, 1989, amended subsection (c)(3) by striking "section 1304 of the Food and Agriculture Act of 1977" and inserting "section 4 of the Agriculture and Consumer Protection Act of 1973".

[17–24] This paragraph added by section 342(a) of P.L. 99–500, 100 Stat. 1783–364, Oct. 18, 1986. Section 342(a) of P.L. 99–591, 100 Stat. 3341–367, Oct. 30, 1986, and section 4302(a) of P.L. 99–661, 100 Stat. 4075, Nov. 14, 1986, made the same addition.

Section 326(a)(1) of P.L. 101–147, 103 Stat. 917, Nov. 10, 1989, eliminated the duplicate provisions by providing that section 17(c)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(c)(4)), as similarly amended first by section 342(a) of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99–591 (100 Stat. 3341–367) and later by section 4302(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661), is amended to read as if the later amendment had not been enacted.

[17–25] Section 729(c) of P.L. 104–193, 110 Stat. 2303, Aug. 22, 1996, struck former paragraph (4) of this subsection. Paragraph (4) originally added by section 343(a) of P.L. 99–500, 100 Stat. 1783–364, Oct. 18, 1986, and section 343(a) of P.L. 99–591, 100 Stat. 3341–367, Oct. 30, 1986, and amended by section 4303(a) of P.L. 99–661, 100 Stat. 4076, Nov. 14, 1986, section 326(a)(2) of P.L. 101–147, 103 Stat. 917, Nov. 10, 1989, and section 204(t)(1) of P.L. 103–448, 108 Stat. 4742, Nov. 2, 1994.

[17–26] Section 123(a)(2) of P.L. 101–147, 103 Stat. 894, Nov. 10, 1989, completely revised paragraph (2).

Section 10405(a)(2)(F) of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239) provides that payments made from the Agent Orange Settlement Fund or a similar fund shall not be considered income or resources in determining eligibility for the amount of benefits under the special supplemental food progam for women, infants, and children established under this section.

[17–27] Effective July 1, 1997, section 109(h)(1) of P.L. 104–193, 110 Stat. 2171, Aug. 22, 1996, amended this subclause by striking "program for aid to families with dependent children established" and inserting "State program funded".

parable to or more restrictive than those in effect on June 1, 1995; [17–28] or

(iii)(I) receives medical assistance under title XIX of the Social Security Act; or

(II) is a member of a family in which a pregnant woman or an infant receives such assistance.

(B) For the purpose of determining income eligibility under this section, any State agency may choose to exclude from income—

(i) [17–29] any basic allowance—

(I) [17–29A] for housing [17–30] received by military service personnel residing off military installations; or [17–30A]

(II) [17–30B] provided under section 403 of title 37, United States Code, for housing that is acquired or constructed under subchapter IV of chapter 169 of title 10, United States Code, or any related provision of law; and

(ii) [17–31] any cost-of-living allowance provided under section 405 of title 37, United States Code, to a member of a uniformed service who is on duty outside the contiguous States of the [17–31A] United States.

(C) [17–32] In the case of a pregnant woman who is otherwise ineligible for participation in the program because the family of the woman is of insufficient size to meet the income eligibility standards of the program, the pregnant woman shall be considered to have satisfied the income eligibility standards if, by increasing the number of individuals in the family of the woman by 1 individual, the income eligibility standards would be met.

(3)(A) [17–33] Persons shall be certified for participation in accordance with general procedures prescribed by the Secretary.

(B) [17–34] A State may consider pregnant women who meet the income eligibility standards to be presumptively eligible to participate in the program and may certify the women for participation immediately, without delaying certification until an evaluation is made concerning nutritional risk. A nutritional risk evaluation of such a woman shall be completed not later than 60 days after the woman is certified for participation. If it is subsequently deter-

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[17–28] Effective July 1, 1997, section 109(h)(2) of P.L. 104–193, 110 Stat. 2171, Aug. 22, 1996, amended this subclause by inserting before the semicolon the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

[17–29] Section 244(b)(1) of P.L. 106–224, 114 Stat. 421, June 20, 2000, amended this subparagraph by striking "income any" and inserting "income" and all that follows through "(i) any".

[17–29A] Sec. 4306(a)(1) of P.L. 107–171, 116 Stat. 332, May 13, 2002, amended clause (i) by striking "basic allowance for housing" and inserting "basic allowance—" and all that follows through "(I) for housing".

[17–30] Section 244(b)(2) of P.L. 106–224, 114 Stat. 421, June 20, 2000, amended this subparagraph by striking "quarters" and inserting "housing".

[17–30A] Sec. 4306(a)(2) of P.L. 107–171, 116 Stat. 332, May 13, 2002, amended clause (i) by striking "and" at the end and inserting "or".

[17–30B] Subclause (II) added by sec. 4306(a)(3) of P.L. 107–171, 116 Stat. 332, May 13, 2002.

[17–31] Section 242(b)(3) and (4) of P.L. 106–224, 114 Stat. 412, June 20, 2000, added clause (ii) and made a conforming amendment to clause (i).

[17–31A] Section 307(b)(1) of P.L. 106–472, 114 Stat. 2073, November 9, 2000, amended this clause by striking "continental" and inserting "contiguous States of the".

[17–32] This subparagraph added by section 204(c)(1) of P.L. 103–448, 108 Stat. 4739, Nov. 2, 1994.

[17–33] Section 204(c)(2)(A) of P.L. 103–448, 108 Stat. 4739, Nov. 2, 1994, inserted "(A)" after "(3)".

[17–34] This subparagraph added by section 204(c)(2)(B) of P.L. 103–448, 108 Stat. 4739, Nov. 2, 1994.

mined that the woman does not meet nutritional risk criteria, the certification of the woman shall terminate on the date of the determination.

(C) [17–35] PHYSICAL PRESENCE.—

(i) IN GENERAL.—Except as provided in clause (ii) and subject to the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), each individual seeking certification or recertification for participation in the program shall be physically present at each certification or recertification determination in order to determine eligibility under the program.

(ii) WAIVERS.—If the agency determines that the requirement of clause (i) would present an unreasonable barrier to participation, a local agency may waive the requirement of clause (i) with respect to—

(I) an infant or child who—

(aa) was present at the initial certification visit; and

(bb) is receiving ongoing health care from a provider other than the local agency; or

(II) an infant or child who—

(aa) was present at the initial certification visit;

(bb) was present at a certification or recertification determination within the 1-year period ending on the date of the certification or recertification determination described in clause (i); and

(cc) has one or more parents who work.

(D) [17–36] INCOME DOCUMENTATION.—

(i) IN GENERAL.—Except as provided in clause (ii), in order to participate in the program pursuant to clause (i) of paragraph (2)(A), an individual seeking certification or recertification for participation in the program shall provide documentation of family income.

(ii) WAIVERS.—A State agency may waive the documentation requirement of clause (i), in accordance with criteria established by the Secretary, with respect to—

(I) an individual for whom the necessary documentation is not available; or

(II) an individual, such as a homeless woman or child, for whom the agency determines the requirement of clause (i) would present an unreasonable barrier to participation.

(E) [17–37] ADJUNCT DOCUMENTATION.—In order to participate in the program pursuant to clause (ii) or (iii) of paragraph (2)(A), an individual seeking certification or recertification for participation in the program shall provide

[17–35] This subparagraph added by section 203(a)(1) of P.L. 105–336, 112 Stat. 3158, Oct. 31, 1998.

[17–36] This subparagraph added by section 203(a)(2) of P.L. 105–336, 112 Stat. 3159, Oct. 31, 1998.

[17–37] This subparagraph added by section 203(a)(3) of P.L. 105–336, 112 Stat. 3159, Oct. 31, 1998.

documentation of receipt of assistance described in that clause.

(F) [17–38] PROOF OF RESIDENCY.—An individual residing in a remote Indian or Native village or an individual served by an Indian tribal organization and residing on a reservation or pueblo may, under standards established by the Secretary, establish proof of residency under this section by providing to the State agency the mailing address of the individual and the name of the remote Indian or Native village.

(e) [17–39](1) [17–40] The State agency shall ensure that nutrition education and drug abuse education is provided to all pregnant, postpartum, and breastfeeding participants in the program and to parents or caretakers of infant and child participants in the program. The State agency may also provide nutrition education and drug abuse education to pregnant, postpartum, and breastfeeding women and to parents or caretakers of infants and children enrolled at local agencies operating the program under this section who do not participate in the program. [17–41] A local agency participating in the program shall provide education or educational materials relating to the effects of drug and alcohol use by a pregnant, postpartum, or breastfeeding woman on the developing child of the woman. [17–42]

(2) [17–43] The Secretary shall prescribe standards to ensure that adequate nutrition education services and breastfeeding promotion and support are provided. The State agency shall provide training to persons providing nutrition education under this section. [17–44]

(3) [17–45] NUTRITION EDUCATION MATERIALS.—

(A) IN GENERAL.—The Secretary shall, after submitting proposed nutrition education materials to the Secretary of Health and Human Services for comment, issue such materials for use in the program under this section.

(B) [17–46] SHARING OF MATERIALS.—The Secretary may provide, in bulk quantity, nutrition education materials (including materials promoting breastfeeding) developed with funds made available for the program authorized under this section to State agencies administering the commodity supplemental food program authorized under sections 4(a) and 5 of the Agriculture and Consumer Protection Act of

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[17–38] This subparagraph added by section 244(c) of P.L. 106–224, 114 Stat. 421, June 20, 2000.

[17–39] Section 729(d)(4) of P.L. 104–193, 110 Stat. 2303, Aug. 22, 1996, struck former paragraph (6) of this subsection. Paragraph (6) was orginally added by section 213(a)(1) of P.L. 101–147, 103 Stat. 912, Nov. 10, 1989, and redesignated in accordance with note 17–47.

[17–40] Section 3201(3) of P.L. 100–690, 102 Stat. 4246, Nov. 18, 1988, added "and drug abuse education" both places it appears in this paragraph.

[17–41] Section 123(a)(3)(A) of P.L. 101–147, 103 Stat. 894, Nov. 10, 1989, struck the last three sentences of paragraph (1).

[17–42] This sentence added by section 203(b) of P.L. 105–336, 112 Stat. 3160, Oct. 31, 1998.

[17–43] Section 123(a)(3)(B) and (C) of P.L. 101–147, 103 Stat. 894, Nov. 10, 1989, amended subsection (e) by redesignating paragraph (2) as paragraph (3) and by inserting a new paragraph (2).

[17–44] Section 729(d)(1) of P.L. 104–193, 110 Stat. 2303, Aug. 22, 1996, amended paragraph (2) by striking the former third sentence.

[17–45] Section 203(c) of P.L. 105–336, 112 Stat. 3160, Oct. 31, 1998, amended this paragraph by striking "(3) The" and inserting "(3)" and all that follows through "IN GENERAL.—The", and added subparagraph (B). See notes 17–24 and 17–43.

[17–46] See note 17–45.

1973 (7 U.S.C. 612c note; Public Law 93–86) at no cost to that program.

(4) [17–47] The State agency [17–48]—

(A) [17–49] shall provide each local agency with materials showing the maximum income limits, according to family size, applicable to pregnant women, infants, and children up to age 5 under the medical assistance program established under title XIX of the Social Security Act (in this section referred to as the 'medicaid program');

(B) [17–49] shall provide to individuals applying for the program under this section, or reapplying at the end of their certification period, written information about the medicaid program and referral to such program or to agencies authorized to determine presumptive eligibility for such program, if such individuals are not participating in such program and appear to have family income below the applicable maximum income limits for such program; and

(C) [17–49] may provide a local agency with materials describing other programs for which a participant in the program may be eligible.

(5) [17–50] Each [17–51] local agency shall maintain and make available for distribution a list of local resources for substance abuse counseling and treatment.

(f)(1) [17–52](A) Each State agency shall submit to the Secretary, by a date specified by the Secretary, an initial [17–53] date specified by the Secretary, a plan of operation and administration for a fiscal year. After submitting the initial plan, a State shall be required to

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[17–47] Section 123(a)(3)(D) of P.L. 101–147, 103 Stat. 895, Nov. 10, 1989, added a second paragraph (3) and paragraph (4). Section 204(d) of P.L. 103–448, 108 Stat. 4739, Nov. 2, 1994, redesignated the second paragraph (3) and paragraphs (4) and (5) as paragraphs (4), (5), and (6), respectively.

Section 1902(a)(11)(C) of the Social Security Act (42 U.S.C. 1396a(a)(11)(C)) requires a State plan for medical assistance to provide for coordination of the operations under title XIX of such Act with the State's operations under the special supplemental nutrition program for women, infants, and children under this section.

Section 1902(a)(53) of the Social Security Act (42 U.S.C. 1396a(a)(53)) requires a State plan for medical assistance to provide (A) for notifying all individuals in the State who are determined to be eligible for medical assistance and who are pregnant women, breastfeeding or postpartum women (as defined in this section), or children below the age of 5, of the availability of benefits furnished by the special supplemental nutrition program under this section, and (B) for referring any such individual to the State agency responsible for administering such program.

Section 6506(a)(3)(E) of the Omnibus Budget Reconciliation Act of 1989 (P.L. 101–239; 42 U.S.C. 701 note) requires the Secretary of Health and Human Resources to develop a model application form for use in applying, simultaneously, for assistance for a pregnant women or a child less than 6 years of age under maternal and child assistance programs, including the WIC program established under this section.

[17–48] Section 729(d)(2)(A) of P.L. 104–193, 110 Stat. 2303, Aug. 22, 1996, struck "shall" from this paragraph.

[17–49] Section 729(d)(2) of P.L. 104–193, 110 Stat. 2303, Aug. 22, 1996, struck former subparagraph (A), redesignated subparagraphs (B) and (C) as subparagraphs (A) and (B), inserted "shall" before "provide" in subparagraphs (A) and (B), added subparagraph (C), and made grammatical conforming amendments.

[17–50] See note 17–47.

[17–51] Section 729(d)(3) of P.L. 104–193, 110 Stat. 2303, Aug. 22, 1996, amended paragraph (5) by striking "The State agency shall ensure that each" and inserting "Each".

[17–52] This paragraph completely revised by section 344(a) of P.L. 99–500, 100 Stat. 1783–365, Oct. 18, 1986 (beginning with State plans for fiscal year 1987). Section 344(a) of P.L. 99–591, 100 Stat. 3341–368, Oct. 30, 1986, and section 4304(a) of P.L. 99–661, 100 Stat. 4076, Nov. 14, 1986, made the same revisions.

[17–53] Section 729(e)(1)(A)(i) of P.L. 104–193, 110 Stat. 2303, Aug. 22, 1996, amended subparagraph (A) by striking "annually to the Secretary, by a date specified by the Secretary, a" and inserting "to the Secretary, by a date specified by the Secretary, an initial".

submit to the Secretary for approval only a substantive change in the plan.[17–54]

(B) To be eligible to receive funds under this section for a fiscal year, a State agency must receive the approval of the Secretary for the plan submitted for the fiscal year.

(C)[17–55] The plan shall include—

(i) a description of the food delivery system of the State agency and the method of enabling participants to receive supplemental foods under the program, to be administered in accordance with standards developed by the Secretary;

(ii) a description of the financial management system of the State agency;

(iii)[17–56] a plan to coordinate operations under the program with other services or programs that may benefit participants in, and applicants for, the program;

(iv) a plan to provide program benefits under this section to, and to meet the special nutrition education needs of, eligible migrants, homeless individuals, and Indians;[17–57]

(v) a plan to expend funds to carry out the program during the relevant fiscal year;

(vi) a plan to provide program benefits under this section to unserved and underserved areas in the State (including a plan to improve access to the program for participants and prospective applicants who are employed, or who reside in rural areas),[17–58] if sufficient funds are available to carry out this clause;

(vii)[17–59] a plan for[17–60] reaching and enrolling eligible women in the early months of pregnancy, including provisions to reach and enroll eligible migrants;

(viii)[17–61] a plan to provide program benefits under this section to unserved infants and children under the care of foster parents, protective services, or child welfare authorities, including infants exposed to drugs perinatally;

(ix)[17–62] a plan to provide nutrition education and promote breastfeeding; and

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[17–54] This sentence added by section 729(e)(1)(A)(ii) of P.L. 104–193, 110 Stat. 2303, Aug. 22, 1996.

[17–55] Section 8(b) of P.L. 100–237, 101 Stat. 1740, Jan. 8, 1988, amended this subparagraph by striking out "and" at the end of clause (vii), redesignating clause (viii) as clause (ix), and adding a new clause (viii).

[17–56] This clause completely revised by section 729(e)(1)(B)(i) of P.L. 104–193, 110 Stat. 2303, Aug. 22, 1996. Previously, this clause was amended by section 9 of P.L. 100–237, 101 Stat. 1741, Jan. 8, 1988, section 3201(4)(A) of P.L. 100–690, 102 Stat. 4246, Nov. 18, 1988, section 123(a)(4)(A)(i) of P.L. 101–147, 103 Stat. 895, Nov. 10, 1989, and section 204(e) of P.L. 103–448, 108 Stat. 4739, Nov. 2, 1994.

[17–57] Section 212(c) of P.L. 100–435, 102 Stat. 1658, Sept. 19, 1988, inserted "migrants, homeless individuals," in lieu of "migrants".

[17–58] Section 729(e)(1)(B)(ii) of P.L. 104–193, 110 Stat. 2304, Aug. 22, 1996, amended clause (vi) by inserting after "in the State" the following: "(including a plan to improve access to the program for participants and prospective applicants who are employed, or who reside in rural areas)".

[17–59] Section 123(a)(4)(A)(ii) of P.L. 101–147, 103 Stat. 895, Nov. 10, 1989, completely revised clause (vii).

[17–60] Section 729(e)(1)(B)(iii) of P.L. 104–193, 110 Stat. 2303, Aug. 22, 1996, amended clause (vii) by striking "to provide program benefits" and all that follows through "emphasis on" and inserting "for".

[17–61] Section 123(a)(4)(A)(iii) and (iv) of P.L. 101–147, 103 Stat. 895, Nov. 10, 1989, amended this subparagraph by redesignating clauses (viii) and (ix) as clauses (xii) and (xiii), respectively, and inserting new clauses (viii) through (xi).

[17–62] Section 729(e)(1)(B) of P.L. 104–193, 110 Stat. 2304, Aug. 22, 1996, amended this subparagraph by striking former clauses (ix), (x), and (xii), redesignating clauses (xi) and (xiii) as clauses (ix) and (x), respectively, and making a conforming amendment. For pre-

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(x) [17–63] such other information as the Secretary may reasonably require. [17–64]

(D) [17–65] The Secretary may not approve any plan that permits a person to participate simultaneously in both the program authorized under this section and the commodity supplemental food program authorized under sections 4 and 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note).

(2) [17–66] A State agency shall establish a procedure under which members of the general public are provided an opportunity to comment on the development of the State agency plan.

(3) The Secretary shall establish procedures under which eligible migrants may, to the maximum extent feasible, continue to participate in the program under this section when they are present in States other than the State in which they were originally certified for participation in the program and shall ensure that local programs provide priority consideration to serving migrant participants who are residing in the State for a limited period of time. [17–67] Each State agency shall be responsible for administering the program for migrant populations within its jurisdiction.

(4) State agencies shall submit monthly financial reports and participation data to the Secretary.

(5) State and local agencies operating under the program shall keep such accounts and records, including medical records, as may be necessary to enable the Secretary to determine whether there has been compliance with this section and to determine and evaluate the benefits of the nutritional assistance provided under this section. Such accounts and records shall be available at any reasonable time [17–68] for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary. [17–69]

(6) [17–70](A) [17–71] Local agencies participating in the program under this section shall notify persons of their eligibility or ineligibility for the program within twenty days of the date that the household, during office hours of a local agency, personally makes an oral or written request to participate in the program. The Sec-

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vious amendments, see note 17–61 and section 8(b) of Public Law 100–237, 101 Stat. 1740, Jan. 8, 1988.

[17–63] See note 17–62.

[17–64] Section 729(e)(1)(B)(v) of P.L. 104–193, 110 Stat. 2303, Aug. 22, 1996, amended this clause by striking "may require" and inserting "may reasonably require".

[17–65] Section 729(e)(1) of P.L. 104–193, 110 Stat. 2304, Aug. 22, 1996, amended this paragraph by striking former subparagraph (D) and by redesignating former subparagraph (E) as subparagraph (D).

[17–66] This paragraph completely revised by section 345 of P.L. 99–500, 100 Stat. 1783–366, Oct. 18, 1986, to give more flexibility to public comment requirement. Section 345 of P.L. 99–591, 100 Stat. 3341–349, Oct. 30, 1986, and section 4305 of P.L. 99–661, 100 Stat. 4077, Nov. 14, 1986, made the same revisions.

[17–67] Section 204(f) of P.L. 103–448, 108 Stat. 4739, Nov. 2, 1994, amended this sentence by inserting before the period "and shall" and all that follows through "period of time".

[17–68] Section 729(e)(3) of P.L. 104–193, 110 Stat. 2304, Aug. 22, 1996, amended the second sentence of paragraph (5) by striking "at all times be available" and inserting "be available at any reasonable time".

[17–69] The second sentence of section 9(c) of the Food Stamp Act of 1977 (7 U.S.C. 2018(c)) provides that certain information submitted by retail food stores under the food stamp program may be used by State agencies that administer the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) for purposes of administering such Act.

[17–70] Section 729(e)(2) and (10) of P.L. 104–193, 110 Stat. 2304, Aug. 22, 1996, amended this subsection by striking former paragraphs (6) and (22) and by redesignating former paragraphs (7) through (21) as paragraphs (6) through (20), and former paragraphs (23) and (24) as paragraphs (21) and (22), respectively.

[17–71] Section 213(a)(2)(A) of P.L. 101–147, 103 Stat. 912, Nov. 10, 1989, amended this paragraph by inserting "(A)" after "(7)" and adding subparagraph (B).

retary shall establish a shorter notification period for categories of persons who, due to special nutritional risk conditions, must receive benefits more expeditiously.

(B) [17–72] State agencies may provide for the delivery of vouchers to any participant who is not scheduled for nutrition education counseling or a recertification interview through means, such as mailing, that do not require the participant to travel to the local agency to obtain vouchers. The State agency shall describe any plans for issuance of vouchers by mail in its plan submitted under paragraph (1). The Secretary may disapprove a State plan with respect to the issuance of vouchers by mail in any specified jurisdiction or part of a jurisdiction within a State only if the Secretary finds that such issuance would pose a significant threat to the integrity of the program under this section in such jurisdiction or part of a jurisdiction.

(7) [17–73](A) The State agency shall, in cooperation with participating local agencies, publicly announce and distribute information on the availability of program benefits (including the eligibility criteria for participation and the location of local agencies operating the program) to offices and organizations that deal with significant numbers of potentially eligible individuals (including health and medical organizations, hospitals and clinics, welfare and unemployment offices, social service agencies, farmworker organizations, Indian tribal organizations, organizations and agencies serving homeless individuals and shelters for victims of domestic violence, [17–74] and religious and community organizations in low income areas).

(B) The information shall be publicly announced by the State agency and by local agencies at least annually.

(C) The State agency and local agencies shall distribute the information in a manner designed to provide the information to potentially eligible individuals who are most in need of the benefits, including pregnant women in the early months of pregnancy.

(D) [17–75] Each local agency operating the program within a hospital and each local agency operating the program that has a cooperative arrangement with a hospital shall—

(i) advise potentially eligible individuals that receive inpatient or outpatient prenatal, maternity, or postpartum services, or accompany a child under the age of 5 who receives well-child services, of the availability of program benefits; and

(ii) to the extent feasible, provide an opportunity for individuals who may be eligible to be certified within the hospital for participation in such program.

(8) [17–76](A) The State agency shall grant a fair hearing, and a prompt determination thereafter, in accordance with regulations

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[17–72] See note 17–71.

[17–73] This paragraph completely revised by section 346 of P.L. 99–500, 100 Stat. 1783–366, Oct. 18, 1986. Section 346 of P.L. 99–591, 100 Stat. 3341–369, Oct. 30, 1986, and section 4306 of P.L. 99–661, 100 Stat. 4077, Nov. 14, 1986, made the same revisions. Section 326(b)(3)(A) of P.L. 101–147, 103 Stat. 918, Nov. 10, 1989, amended subsection (f)(8) by striking "persons" each place it appears and inserting "individuals". For redesignation, see note 17–70.

[17–74] Section 212(c) of P.L. 100–435, 102 Stat. 1657, Sept. 19, 1988, inserted "organizations and agencies serving homeless individuals and shelters for victims of domestic violence," after "Indian tribal organizations,".

[17–75] Subparagraph (D) added by section 123(a)(4)(B) of P.L. 101–147, 103 Stat. 896, Nov. 10, 1989.

[17–76] Section 123(a)(4)(C) of P.L. 101–147, 103 Stat. 896, Nov. 10, 1989, amended this paragraph by inserting "(A)" and by adding subparagraph (B). For redesignation, see note 17–70.

issued by the Secretary, to any applicant, participant, or local agency aggrieved by the action of a State or local agency as it affects participation.

(B) [17–77] Any State agency that must suspend or terminate benefits to any participant during the participant's certification period due to a shortage of funds for the program shall first issue a notice to such participant. [17–78]

(9) [17–79] If an individual certified as eligible for participation in the program under this section in one area moves to another area in which the program is operating, that individual's certification of eligibility shall remain valid for the period for which the individual was originally certified.

(10) [17–80] The Secretary shall establish standards for the proper, efficient, and effective administration of the program. [17–81] If the Secretary determines that a State agency has failed without good cause to administer the program in a manner consistent with this section or to implement the approved plan of operation and administration under this subsection, the Secretary may withhold such amounts of the State agency's funds for nutrition services and administration [17–82] as the Secretary deems appropriate. Upon correction of such failure during a fiscal year by a State agency, any funds so withheld for such fiscal year shall be provided the State agency.

(11) [17–83] The Secretary shall prescribe by regulation the supplemental foods to be made available in the program under this section. To the degree possible, the Secretary shall assure that the fat, sugar, and salt content of the prescribed foods is appropriate. [17–84]

(12) [17–85] A competent professional authority shall be responsible for prescribing the appropriate supplemental foods, taking into account medical and nutritional conditions and cultural eating patterns, and, in the case of homeless individuals, the special needs and problems of such individuals.

(13) [17–86] The State agency may [17–87] (A) provide nutrition education, breastfeeding promotion, [17–88] and drug abuse education [17–89] materials and instruction in languages other than English and (B)

[17–77] See note 17–76.

[17–78] Section 729(e)(4) of P.L. 104–193, 110 Stat. 2304, Aug. 22, 1996, amended subparagraph (B) by striking the second sentence.

[17–79] Section 326(b)(3)(B) of P.L. 101–147, 103 Stat. 918, Nov. 10, 1989, amended this paragraph by striking references to "person" and inserting "individual". For redesignation, see note 17–70.

[17–80] For redesignation, see note 17–80.

[17–81] Section 729(e)(5) of P.L. 104–193, 110 Stat. 2304, Aug. 22, 1996, amended this sentence by striking ", including standards that will ensure sufficient State agency staff".

[17–82] Section 341(b) of P.L. 99–500, 100 Stat. 1783–364, Oct. 18, 1986, amended this section by striking out "administrative funds" each place it appeared in this paragraph and subsections (h)(2), (h)(3), and (h)(4), and inserting instead "fund for nutrition services and administration"; and by striking out "administrative costs" each place it appeared in subsection (h) and inserting instead "costs for nutrition services and administration". Section 341(b) of P.L. 99–591, 100 Stat. 3341–367, Oct. 30, 1986, and section 4301(b) of P.L. 99–661, 100 Stat. 4075, Nov. 14, 1986, made the same substitutions.

[17–83] For redesignation, see note 17–70.

[17–84] Section 729(e)(6) of P.L. 104–193, 110 Stat. 2304, Aug. 22, 1996, amended this paragraph by striking the third sentence.

[17–85] For redesignation, see note 17–70.

[17–86] For redesignation, see note 17–70.

[17–87] Section 729(e)(7) of P.L. 104–193, 110 Stat. 2303, Aug. 22, 1996, amended this paragraph by striking "shall" and inserting "may".

[17–88] Section 123(a)(4)(D) of P.L. 101–147, 103 Stat. 896, Nov. 10, 1989, amended this paragraph by inserting ", breastfeeding promotion,".

[17–89] Section 3201(4)(B) of P.L. 100–690, 102 Stat. 4246, Nov. 18, 1988, amended this paragraph by inserting "and drug abuse education".

use appropriate foreign language materials in the administration of the program, in areas in which a substantial number of low-income households speak a language other than English.

(14) [17–90] If a State agency determines that a member of a family has received an overissuance of food benefits under the program authorized by this section as the result of such member intentionally making a false or misleading statement or intentionally misrepresenting, concealing, or withholding facts, the State agency shall recover, in cash, from such member an amount that the State agency determines is equal to the value of the overissued food benefits, unless the State agency determines that the recovery of the benefits would not be cost effective. [17–91]

(15) [17–92] To be eligible to participate in the program authorized by this section, a manufacturer of infant formula that supplies formula for the program shall—

(A) register with the Secretary of Health and Human Services under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321 et seq.); and

(B) before bidding for a State contract to supply infant formula for the program, certify with the State health department that the formula complies with such Act and regulations issued pursuant to such Act.

(16) [17–93] The State agency may adopt methods of delivering benefits to accommodate the special needs and problems of homeless individuals. [17–94]

(17) [17–95] Notwithstanding subsection (d)(2)(A)(i), not later than July 1 of each year, a State agency may implement income eligibility guidelines under this section concurrently with the implementation of income eligibility guidelines under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(18) [17–96] Each local agency participating in the program under this section may [17–97] provide information about other potential sources of food assistance in the local area to individuals who apply in person to participate in the program under this section, but who cannot be served because the program is operating at capacity in the local area.

(19) [17–98] The State agency shall adopt policies that—

[17–90] This paragraph added by section 347 of P.L. 99–500, 100 Stat. 1783–366, Oct. 18, 1986. Section 347 of P.L. 99–591, 100 Stat. 3341–369, Oct. 30, 1986, and section 4307 of P.L. 99–661, 100 Stat. 4077, Nov. 14, 1986, made the same addition. For redesignation, see note 17–70.

[17–91] Section 3803(c)(2)(C)(x) of title 31, United States Code, provides administrative remedies for false claims and statements relating to benefits under the special supplemental nutrition program for women, infants, and children established under this section.

[17–92] This paragraph added by section 11 of P.L. 100–237, 101 Stat. 1741, Jan. 8, 1988. For redesignation, see note 17–70.

[17–93] This paragraph added by section 212(c)(4) of P.L. 100–435, 102 Stat. 1658, Sept. 19, 1988. Section 326(b)(3)(C) of P.L. 101–147, 103 Stat. 918, Nov. 10, 1989, corrected the indentation of this paragraph. For redesignation, see note 17–70.

[17–94] Section 123(a)(4)(E) of P.L. 101–147, 103 Stat. 896, Nov. 10, 1989, amended this paragraph by inserting "and to accomodate" and all that follows through "juvenile detention facilities". Section 729(e)(8) of P.L. 104–193, 110 Stat. 2304, Aug. 22, 1996, amended this paragraph by striking "and to accommodate" and all that follows through "facilities".

[17–95] Section 123(a)(4)(F) of P.L. 101–147, 103 Stat. 896, Nov. 10, 1989, added this paragraph and the following 2 paragraphs. This paragraph completely revised by section 204(g) of P.L. 103–448, 108 Stat. 4739, Nov. 2, 1994. For redesignation, see note 17–70.

[17–96] See note 17–95.

[17–97] Section 729(e)(9) of P.L. 104–193, 110 Stat. 2304, Aug. 22, 1996, amended this paragraph by striking "shall" and inserting "may".

[17–98] See note 17–95.

(A) require each local agency to attempt to contact each pregnant woman who misses an appointment to apply for participation in the program under this section, in order to reschedule the appointment, unless the phone number and the address of the woman are unavailable to such local agency; and

(B) in the case of local agencies that do not routinely schedule appointments for individuals seeking to apply or be recertified for participation in the program under this section, require each such local agency to schedule appointments for each employed individual seeking to apply or be recertified for participation in such program so as to minimize the time each such individual is absent from the workplace due to such application or request for recertification.

(20) [17–99] Each State agency shall conduct monitoring reviews of each local agency at least biennially.

(21) [17–100] USE OF CLAIMS FROM VENDORS AND PARTICIPANTS.—A State agency may use funds recovered from vendors and participants, as a result of a claim arising under the program, to carry out the program during—

(A) the fiscal year in which the claim arises;

(B) the fiscal year in which the funds are collected; and

(C) the fiscal year following the fiscal year in which the funds are collected.

(22) [17–101] The Secretary and the Secretary of Health and Human Services shall carry out an initiative to assure that, in a case in which a State medicaid program uses coordinated care providers under a contract entered into under section 1903(m), or a waiver granted under section 1915(b), of the Social Security Act (42 U.S.C. 1396b(m) or 1396n(b)), coordination between the program authorized by this section and the medicaid program is continued, including—

(A) the referral of potentially eligible women, infants, and children between the 2 programs; and

(B) the timely provision of medical information related to the program authorized by this section to agencies carrying out the program.

(23) [17–102] INDIVIDUALS PARTICIPATING AT MORE THAN ONE SITE.—Each State agency shall implement a system designed by the State agency to identify individuals who are participating at more than one site under the program.

(24) [17–103] HIGH RISK VENDORS.—Each State agency shall—

[17–99] This paragraph added by section 213(a)(2)(B) of P.L. 101–147, 103 Stat. 913, Nov. 10, 1989. For redesignation, see note 17–70.

[17–100] Section 203(d) of P.L. 105–336, 112 Stat. 3160, Oct. 31, 1998, amended this paragraph in its entirety. This paragraph originally added by section 204(h) of P.L. 103–448, 108 Stat. 4739, Nov. 2, 1994. For redesignation, see note 17–70.

Former paragraph (22) added by section 205 of P.L. 102–512, Oct. 24, 1992. Section 209 of P.L. 102–512, Oct. 24, 1992, provided that the authority provided by title II of P.L. 102–512 and the amendments made by such title (except with regard to section 17(h)(8)(J)) terminates on September 30, 1994. Effective October 1, 1994, section 204(o)(2) of P.L. 103–448, 108 Stat. 4742, Nov. 2, 1994, repealed section 209 of P.L. 102–512. Although the repeal of such section 209 is effective after the amendments made by such section 209 terminate, the repeal is treated as effective to effectuate the probable intent of Congress. Section 729(e)(2) of P.L. 104–193, 110 Stat. 2304, Aug. 22, 1996, struck former paragraph (22).

[17–101] This paragraph added by section 204(i) of P.L. 103–448, 108 Stat. 4740, Nov. 2, 1994. For redesignation, see note 17–70.

[17–102] This paragraph added by section 203(e) of P.L. 105–336, 112 Stat. 3160, Oct. 31, 1998.

[17–103] This paragraph added by section 203(f)(1) of P.L. 105–336, 112 Stat. 3160, Oct. 31, 1998. Section 203(f)(2) of P.L. 105–336, 112 Stat. 3160, Oct. 31, 1998, requires the Sec-

(A) identify vendors that have a high probability of program abuse; and

(B) conduct compliance investigations of the vendors.

(g) [17–104](1) There are authorized to be appropriated to carry out this section $2,158,000,000 for the fiscal year 1990, and such sums as may be necessary for each of the fiscal years 1995 through 2003. As authorized by section 3 of the Richard B. Russell National School Lunch Act, appropriations to carry out the provisions of this section may be made not more than 1 year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States, and shall remain available for the purposes for which appropriated until expended.

(2) [17–105](A) Notwithstanding any other provision of law, unless enacted in express limitation of this subparagraph, the Secretary—

(i) in the case of legislation providing funds through the end of a fiscal year, shall issue—

(I) an initial allocation of funds provided by the enactment of such legislation not later than the expiration of the 15-day period beginning on the date of the enactment of such legislation; and

(II) subsequent allocations of funds provided by the enactment of such legislation not later than the beginning of each of the second, third, and fourth quarters of the fiscal year; and

(ii) in the case of legislation providing funds for a period that ends prior to the end of a fiscal year, shall issue an initial

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retary of Agriculture to promulgate (A) not later than March 1, 1999, proposed regulations to carry out this paragraph, and (B) not later than March 1, 2000, final regulations to carry out this paragraph.

[17–104] Title III of P.L. 96–108, 93 Stat. 838, Nov. 9, 1979, changed the authorization of appropriations for fiscal year 1980 from $800,000,000 to $750,000,000.

Section 203(d)(2) of P.L. 96–499, 94 Stat. 2601, Dec. 5, 1980, deleted the specific appropriations authorization for fiscal year 1982 and inserted instead "such sums as may be necessary for the three subsequent fiscal years".

Section 815 of P.L. 97–35, 95 Stat. 531, Aug. 13, 1981, deleted the prior general authorizations of appropriations for fiscal years 1982–1984 and inserted specific amounts instead.

Amended by section 314 of P.L. 99–500, 100 Stat. 1783–360, Oct. 18, 1986, which designated the first and second sentences as paragraphs (1) and (3), respectively, and completely revised paragraph (1) (as designated) to authorize appropriations for fiscal years 1986–1989.

Section 314 of P.L. 99–591, 100 Stat. 3341–363, Oct. 30, 1986, made the same revision.

Section 4104 of P.L. 99–661, 100 Stat. 4071, Nov. 14, 1986, made essentially the same change, but authorized the appropriation of $1,580,494 for fiscal year 1986 rather than $1,570,000 as in P.L. 99–500 and 99–591.

Chapter X of P.L. 100–71, 101 Stat. 425, July 11, 1988, deleted specific authorizations of appropriations for fiscal year 1989 and inserted a general authorization instead.

Section 123(a)(5)(A) of P.L. 101–147, 103 Stat. 897, Nov. 10, 1989, completely revised paragraph (1) to authorize appropriations of $2,158,000,000 for the fiscal year 1990, and such sums as may be necessary for each of the fiscal years 1991, 1992, 1993, and 1994, to authorize the advance appropriations of funds, and to provide that appropriated funds shall remain available until expended.

Section 204(j)(1) of P.L. 103–448, 108 Stat. 4740, Nov. 2, 1994, amended this paragraph by striking "1991, 1992, 1993, and 1994" and inserting "1995 through 1998".

Section 203(g) of P.L. 105–336, 112 Stat. 3161, Oct. 31, 1998, amended this paragraph by striking "1998" and inserting "2003".

Section 255(h) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(h)) exempts the women, infants, and children program from reductions under sequestration deficit reduction orders.

Section 729(f)(2) of P.L. 104–193, 110 Stat. 2304, Aug. 22, 1996, struck paragraph (6) of this subsection. Previously, paragraph (6) added by section 123(a)(5)(E) of P.L. 101–147, 103 Stat. 898, Nov. 10, 1989.

[17–105] Section 123(a)(5)(B) and (C) of P.L. 101–147, 103 Stat. 897, Nov. 10, 1989, amended subsection (g) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively, and by inserting new paragraphs (2) and (3).

allocation of funds provided by the enactment of such legislation not later than the expiration of the 10-day period beginning on the date of the enactment of such legislation.

(B) In any fiscal year—

(i) unused amounts from a prior fiscal year that are identified by the end of the first quarter of the fiscal year shall be recovered and reallocated not later than the beginning of the second quarter of the fiscal year; and

(ii) unused amounts from a prior fiscal year that are identified after the end of the first quarter of the fiscal year shall be recovered and reallocated on a timely basis.

(3) [17–106] Notwithstanding any other provision of law, unless enacted in express limitation of this paragraph—

(A) the allocation of funds required by paragraph (2)(A)(i)(I) shall include not less than ⅓ of the amounts appropriated by the legislation described in such paragraph;

(B) the allocations of funds required by paragraph (2)(A)(i)(II) to be made not later than the beginning of the second and third quarters of the fiscal year shall each include not less than ¼ of the amounts appropriated by the legislation described in such paragraph; and

(C) in the case of the enactment of legislation providing appropriations for a period of not more than 4 months, the allocation of funds required by paragraph (2)(A)(ii) shall include all amounts appropriated by such legislation except amounts reserved by the Secretary for purposes of carrying out paragraph (5).

(4) [17–107] Of the sums appropriated for any fiscal year for programs authorized under this section, not less than nine-tenths of 1 percent shall be available first for services to eligible members of migrant populations. The migrant services shall be provided in a manner consistent with the priority system of a State for program participation.

(5) [17–108] Of the sums appropriated for any fiscal year for the program under this section, one-half of 1 percent, not to exceed $5,000,000 [17–109], shall be available to the Secretary for the purpose of evaluating program performance, evaluating health benefits, preparing reports on program participant characteristics, [17–110] providing technical assistance to improve State agency administrative systems, [17–111] administration of pilot projects, including projects de-

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[17–106] See note 17–105.

[17–107] This paragraph added by section 348(a) of P.L. 99–500, 100 Stat. 1783–366, Oct. 18, 1986. Section 348(a) of P.L. 99–591, 100 Stat. 3341–369, Oct. 30, 1986, and section 4308(a) of P.L. 99–661, 100 Stat. 4077, Nov. 14, 1986, made the same addition. Subsection (b) of each of these sections provides that:

"(b) ACCOUNTABILITY.—To the extent possible, accountability for migrant services under section 17(g)(2) of the Child Nutrition Act of 1966 (as added by subsection (a)) shall be conducted under regulations in effect on the date of the enactment of this Act.".

For redesignation, see note 17–105.

[17–108] For redesignation, see note 17–105.

[17–109] Section 123(a)(5)(D) of P.L. 101–147, 103 Stat. 898, Nov. 10, 1989, amended this paragraph by striking "$3,000,000" and inserting "$5,000,000".

[17–110] Section 729(f)(1) of P.L. 104–193, 110 Stat. 2304, Aug. 22, 1996, amended this paragraph by striking "the report required under subsection (d)(4)" and inserting "reports on program participant characteristics". Previously, section 343(b) of P.L. 99–500, 100 Stat. 1783–364, Oct. 18, 1986, inserted the language "preparing the report required under subsection (d)(4),". Section 343(b) of P.L. 99–591, 100 Stat. 3341–368, Oct. 30, 1986, and section 4303(b) of P.L. 99–661, 100 Stat. 4076, Nov. 14, 1986, made the same insertion.

[17–111] Section 349 of P.L. 99–500, 100 Stat. 1783–367, Oct. 18, 1986, inserted "providing technical assistance to improve State agency administrative systems,". Section 349 of P.L.

signed to meet the special needs of migrants, Indians, and rural populations, and carrying out technical assistance and research evaluation projects of the programs under this section.[17–112]

(h)[17–113](1)(A) Each fiscal year, the Secretary shall make available, from amounts appropriated for such fiscal year under subsection (g)(1) and amounts remaining from amounts appropriated under such subsection for the preceding fiscal year, an amount sufficient to guarantee a national average per participant grant to be allocated among State agencies for costs of nutrition services and administration incurred by State and local agencies[17–114] for such year.

(B)(i) The amount of the national average per participant grant for nutrition services and administration for any fiscal year shall be an amount equal to the amount of the national average per participant grant for nutrition services and administration issued the preceding fiscal year,[17–115] as adjusted.

(ii) Such adjustment, for any fiscal year, shall be made by revising the national average per participant grant for nutrition services and administration for the preceding fiscal year[17–116] to reflect the percentage change between—

(I)[17–117] the value of the index for State and local government purchases, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30 of the second preceding fiscal year; and

(II) the best estimate that is available as of the start of the fiscal year of the value of such index for the 12-month period ending June 30 of the previous fiscal year.

(C)[17–118] REMAINING AMOUNTS.—

(i) IN GENERAL.—Except as provided in clause (ii), in any fiscal year, amounts remaining from amounts appropriated for such fiscal year under subsection (g)(1) and from amounts appropriated under such section for the preceding fiscal year, after carrying out subparagraph (A), shall be made available for food benefits under this section, except to the extent that

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99–591, 100 Stat. 3341–370, Oct. 30, 1986, and section 4309 of P.L. 99–661, 100 Stat. 4078, Nov. 14, 1986, made the same addition.

[17–112] Section 204(k) of P.L. 103–448, 108 Stat. 4740, Nov. 2, 1994, amended this paragraph by striking "and" before "administration" and by inserting before the period ", and carrying out technical assistance and research evaluation projects of the programs under this section".

[17–113] Subsection (h) completely revised by section 123(a)(6) of P.L. 101–147, 103 Stat. 898, Nov. 10, 1989. Subsection (h) previously amended by section 203(d)(3) of P.L. 96–499, 92 Stat. 2601, Dec. 5, 1980; sections 314(3), 350, 351, and 352 of P.L. 99–500, 100 Stat. 1783–360, 1783–367, Oct. 18, 1986; section 314(3), 350, 351, and 352 of P.L. 99–591, 100 Stat. 3341–363, 3341–370, Oct. 30, 1986; section 4104(3), 4310, 4311, and 4312 of P.L. 99–661, 100 Stat. 4071, 4078, Oct. 18, 1986; section 8(a) of P.L. 100–237, 101 Stat. 1740, Jan. 8, 1988; and section 3(a) of P.L. 100–356, 102 Stat. 669, June 28, 1988.

[17–114] Effective October 1, 2000, section 242(b)(2)(B) of P.L. 106–224, 114 Stat. 412, June 20, 2000, amended this subparagraph by striking "costs incurred by State and local agencies for nutrition services and administration" and inserting "costs of nutrition services and administration incurred by State and local agencies".

[17–115] Effective October 1, 2000, section 244(d)(1) of P.L. 106–224, 114 Stat. 421, June 20, 2000, amended this clause by striking "the fiscal year 1987" and inserting "the preceding fiscal year".

[17–116] Effective October 1, 2000, section 244(d)(2)(A) of P.L. 106–224, 114 Stat. 421, June 20, 2000, amended this clause by striking "the fiscal year 1987" and inserting "the preceding fiscal year".

[17–117] Effective October 1, 2000, section 244(d)(2)(B) of P.L. 106–224, 114 Stat. 421, June 20, 2000, amended subclause (I) in its entirety.

[17–118] Section 203(h) of P.L. 105–336, 112 Stat. 3161, Oct. 31, 1998, amended this subparagraph by striking "(C) In" and inserting "(C)" and all that follows through "(i) IN GENERAL.—Except as provided in clause (ii), in", and by adding clause (ii).

such amounts are needed to carry out the purposes of subsections (g)(4) and (g)(5).

(ii) BREAST PUMPS.—A State agency may use amounts made available under clause (i) for the purchase of breast pumps.

(2)(A)[17–119] For each of the fiscal years 1995 through 2003, the Secretary shall allocate to each State agency from the amount described in paragraph (1)(A) an amount for costs of nutrition services and administration on the basis of a formula prescribed by the Secretary. Such formula—

(i) shall be designed to take into account—

(I) the varying needs of each State;

(II) the number of individuals participating in each State; and

(III) other factors which serve to promote the proper, efficient, and effective administration of the program under this section;

(ii) shall provide for each State agency—

(I) an estimate of the number of participants for the fiscal year involved; and

(II) a per participant grant for nutrition services and administration for such year;

(iii) shall provide for a minimum grant amount for State agencies; and

(iv)[17–120] may provide funds[17–121] to help defray reasonable anticipated expenses associated with innovations in cost containment or associated with procedures that tend to enhance competition.

(B)(i) Except as provided in clause (ii) and subparagraph (C), in any fiscal year, the total amount allocated to a State agency for costs of nutrition services and administration under the formula prescribed by the Secretary under subparagraph (A) shall constitute the State agency's operational level for such costs for such year even if the number of participants in the program at such agency is lower than the estimate provided under subparagraph (A)(ii)(I).

(ii) If a State agency's per participant expenditure for nutrition services and administration is more than 10 percent (except that the Secretary may establish a higher percentage for State agencies that are small)[17–122] higher than its per participant grant for nutrition services and administration without good cause, the Secretary

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[17–119] Section 206 of P.L. 102–512, Oct. 24, 1992, added clause (iv) to the second sentence of this subparagraph and made conforming amendments to this subparagraph. Section 209 of P.L. 102–512, Oct. 24, 1992, provided that the authority provided by title II of P.L. 102–512 and the amendments made by such title (except with regard to section 17(h)(8)(J)) terminates on September 30, 1994. Effective October 1, 1994, section 204(o)(2) of P.L. 103–448, 108 Stat. 4742, Nov. 2, 1994, repealed section 209 of P.L. 102–512. Although the repeal of such section 209 is effective after the amendments made by such section 209 terminate, the repeal is treated as effective to effectuate the probable intent of Congress. Section 204(j)(2) of P.L. 103–448, 108 Stat. 4740, Nov. 2, 1994, amended paragraph (2)(A) by striking "1990, 1991, 1992, 1993 and 1994" and inserting "1995 through 1998". Section 203(i)(1) of P.L. 105–336, 112 Stat. 3161, Oct. 31, 1998, amended paragraph (2)(A) by striking "1998" and inserting "2003".

[17–120] See note 17–119.

[17–121] Section 203(i)(2) of P.L. 105–336, 112 Stat. 3161, Oct. 31, 1998, amended this clause by striking ", to the extent funds are not already provided under subparagraph (I)(v) for the same purpose,".

[17–122] Section 203(i)(3) of P.L. 105–336, 112 Stat. 3161, Oct. 31, 1998, amended this clause by striking "15 percent" and inserting "10 percent (except that the Secretary may establish a higher percentage for State agencies that are small)".

may reduce such State agency's operational level for costs of nutrition services and administration.

(C) In any fiscal year, the Secretary may reallocate amounts provided to State agencies under subparagraph (A) for such fiscal year. When reallocating amounts under the preceding sentence, the Secretary may provide additional amounts to, or recover amounts from, any State agency.

(3) [17–123](A) Except as provided in subparagraphs (B) and (C), in each fiscal year, each State agency shall expend—

(i) for nutrition education activities and breastfeeding promotion and support activities, an aggregate amount that is not less than the sum of—

(I) ⅙ of the amounts expended by the State for costs of nutrition services and administration; and

(II) except as otherwise provided in subparagraphs (F) and (G), an amount [17–124] equal to a proportionate share of the national minimum breastfeeding promotion expenditure, as described in subparagraph (E), [17–125] with each State's share determined on the basis of the number of pregnant women and breastfeeding women in the program in the State as a percentage of the number of pregnant women and breastfeeding women in the program in all States; and

(ii) for breastfeeding promotion and support activities an amount that is not less than the amount determined for such State under clause (i)(II).

(B) The Secretary may authorize a State agency to expend an amount less than the amount described in subparagraph (A)(ii) for purposes of breastfeeding promotion and support activities if—

(i) the State agency so requests; and

(ii) the request is accompanied by documentation that other funds will be used to conduct nutrition education activities at a level commensurate with the level at which such activities would be conducted if the amount described in subparagraph (A)(ii) were expended for such activities.

(C) The Secretary may authorize a State agency to expend for purposes of nutrition education an amount that is less than the difference between the aggregate amount described in subparagraph (A) and the amount expended by the State for breastfeeding promotion and support programs if—

(i) the State agency so requests; and

(ii) the request is accompanied by documentation that other funds will be used to conduct such activities.

(D) The Secretary shall limit to a minimal level any documentation required under this paragraph.

(E) [17–126] For each fiscal year, the national minimum breastfeeding promotion expenditure means an amount that is—

[17–123] Section 203(i)(4)(B) of P.L. 105–336, 112 Stat. 3161, Oct. 31, 1998, struck former subparagraphs (F) and (G). Former subparagraphs (F) and (G) added by section 204(l)(2) of P.L. 103–448, 108 Stat. 4740, Nov. 2, 1994.

[17–124] Section 204(l)(1)(A) of P.L. 103–448, 108 Stat. 4740, Nov. 2, 1994, amended this subclause by striking "an amount" and inserting "except as otherwise provided in subparagraphs (F) and (G), an amount".

[17–125] Section 204(l)(1)(B) of P.L. 103–448, 108 Stat. 4740, Nov. 2, 1994, amended this subclause by striking "$8,000,000," and inserting "the national minimum breastfeeding promotion expenditure, as described in subparagraph (E),".

[17–126] Subparagraph (E) added by section 204(l)(2) of P.L. 103–448, 108 Stat. 4740, Nov. 2, 1994. Section 203(i)(4)(A) of P.L. 105–336, 112 Stat. 3161, Oct. 31, 1998, amended this

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(i) equal to $21 multiplied by the number of pregnant women and breastfeeding women participating in the program nationwide, based on the average number of pregnant women and breastfeeding women so participating during the last 3 months for which the Secretary has final data; and

(ii) adjusted for inflation on October 1, 1996, and each October 1 thereafter, in accordance with paragraph (1)(B)(ii).

(4) The Secretary shall—

(A) in consultation with the Secretary of Health and Human Services, develop a definition of breastfeeding for the purposes of the program under this section;

(B) authorize the purchase of breastfeeding aids by State and local agencies as an allowable expense under nutrition services and administration;

(C) require each State agency to designate an agency staff member to coordinate breastfeeding promotion efforts identified in the State plan of operation and administration;

(D) require the State agency to provide training on the promotion and management of breastfeeding to staff members of local agencies who are responsible for counseling participants in the program under this section concerning breastfeeding; and

(E) [17–127] not later than 1 year after the date of enactment of this subparagraph, develop uniform requirements for the collection of data regarding the incidence and duration of breastfeeding among participants in the program. [17–128]

(5)(A) Subject to subparagraph (B), in any fiscal year that a State agency submits a plan to reduce average food costs per participant and to increase participation above the level estimated for the State agency, the State agency may, with the approval of the Secretary, [17–129] convert amounts allocated for food benefits for such fiscal year for costs of nutrition services and administration to the extent that such conversion is necessary—

(i) to cover allowable expenditures in such fiscal year; and

(ii) to ensure that the State agency maintains the level established for the per participant grant for nutrition services and administration for such fiscal year.

(B) If a State agency increases its participation level through measures that are not in the nutritional interests of participants or not otherwise allowable (such as reducing the quantities of foods provided for reasons not related to nutritional need), the Secretary may refuse to allow the State agency to convert amounts allocated for food benefits to defray costs of nutrition services and administration.

(C) For the purposes of this paragraph, the term "acceptable measures" includes use of cost containment measures, curtailment of vendor abuse, and breastfeeding promotion activities.

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subparagraph by striking "In the case" and all that follows through "subsequent fiscal year," and inserting "For each fiscal year,".

[17–127] Section 204(m) of P.L. 103–448, 108 Stat. 4741, Nov. 2, 1994, amended this paragraph by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting "; and", and by adding subparagraph (E).

[17–128] Section 729(g)(1)(A) of P.L. 104–193, 110 Stat. 2304, Aug. 22, 1996, amended this subparagraph by striking "and, on" and all that follows through "(d)(4)".

[17–129] Section 203(i)(5) of P.L. 105–336, 112 Stat. 3161, Oct. 31, 1998, amended this subparagraph by striking "achieves" and all that follows through "such State agency may" and inserting "submits a plan to reduce average food costs per participant and to increase participation above the level estimated for the State agency, the State agency may, with the approval of the Secretary,".

(D) [17–130] REMOTE INDIAN OR NATIVE VILLAGES.—For noncontiguous States containing a significant number of remote Indian or Native villages, a State agency may convert amounts allocated for food benefits for a fiscal year to the costs of nutrition services and administration to the extent that the conversion is necessary to cover expenditures incurred in providing services (including the full cost of air transportation and other transportation) to remote Indian or Native villages and to provide breastfeeding support in remote Indian or Native villages.

(6) In each fiscal year, each State agency shall provide, from the amounts allocated to such agency for such year for costs of nutrition services and administration, an amount to each local agency for its costs of nutrition services and administration. The amount to be provided to each local agency under the preceding sentence shall be determined under allocation standards developed by the State agency in cooperation with the several local agencies, taking into account factors deemed appropriate to further proper, efficient, and effective administration of the program, such as—

(A) local agency staffing needs;

(B) density of population;

(C) number of individuals served; and

(D) availability of administrative support from other sources.

(7) The State agency may provide in advance to any local agency any amounts for nutrition services and administration deemed necessary for successful commencement or significant expansion of program operations during a reasonable period following approval of—

(A) a new local agency;

(B) a new cost containment measure; or

(C) a significant change in an existing cost containment measure.

(8) [17–131](A)(i) Except as provided in subparagraphs (B) and (C)(iii), [17–132] any State that provides for the purchase of foods under the program at retail grocery stores shall, with respect to the procurement of infant formula, use—

(I) a competitive bidding system; or

(II) any other cost containment measure that yields savings equal to or greater than savings generated by a competitive bidding system when such savings are determined by comparing the amounts of savings that would be provided over the full term of contracts offered in response to a single invitation to submit both competitive bids and bids for other cost containment systems for the sale of infant formula.

[17–130] Effective October 1, 2000, subparagraph (D) added by section 244(e) of P.L. 106–224, 114 Stat. 421, June 20, 2000.

[17–131] Section 729(g)(1)(B) of P.L. 104–193, 110 Stat. 2304, Aug. 22, 1996, amended this paragraph by striking former subparagraphs (A), (C), and (M) and by redesignating former subparagraphs (B) and (D) through (L) as subparagraphs (A) and (B) through (J), respectively. Section 729(g)(2) of P.L. 104–193, 110 Stat. 2305, Aug. 22, 1996, provided that the amendments made by section 729(g)(1) of the Act shall not apply to a contract for the procurement of infant formula under this paragraph that is in effect on Aug. 22, 1996. Former subparagraph (M) of this paragraph added by section 204(q) of P.L. 103–448, 108 Stat. 4742, Nov. 2, 1994.

[17–132] Section 729(g)(1)(B)(v) of P.L. 104–193, 110 Stat. 2305, Aug. 22, 1996, amended this clause by striking "subparagraphs (C), (D), and (E)(iii), in carrying out subparagraph (A)," and inserting "subparagraphs (B) and (C)(iii),".

(ii) In determining whether a cost containment measure other than competitive bidding yields equal or greater savings, the State, in accordance with regulations issued by the Secretary, may take into account other cost factors (in addition to rebate levels and procedures for adjusting rebate levels when wholesale price levels rise), such as—

(I) the number of infants who would not be expected to receive the contract brand of infant formula under a competitive bidding system;

(II) the number of cans of infant formula for which no rebate would be provided under another rebate system; and

(III) differences in administrative costs relating to the implementation of the various cost containment systems (such as costs of converting a computer system for the purpose of operating a cost containment system and costs of preparing participants for conversion to a new or alternate cost containment system).

(iii)[17–133] COMPETITIVE BIDDING SYSTEM.—A State agency using a competitive bidding system for infant formula shall award contracts to bidders offering the lowest net price unless the State agency demonstrates to the satisfaction of the Secretary that the weighted average retail price for different brands of infant formula in the State does not vary by more than 5 percent.

(B)[17–134](i)[17–135] The Secretary shall waive the requirement of subparagraph (A) in the case of any State that demonstrates to the Secretary that—

(I) compliance with subparagraph (A) would be inconsistent with efficient or effective operation of the program operated by such State under this section; or

(II) the amount by which the savings yielded by an alternative cost containment system would be less than the savings yielded by a competitive bidding system is sufficiently minimal that the difference is not significant.

(ii) The Secretary shall prescribe criteria under which a waiver may be granted pursuant to clause (i).

(iii) The Secretary shall provide information on a timely basis[17–136] to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on waivers that have been granted under clause (i).

(C)[17–137](i) The Secretary shall provide technical assistance to small Indian State agencies carrying out this paragraph in order to assist such agencies to achieve the maximum cost containment savings feasible.

[17–133] This clause added by section 203(j) of P.L. 105–336, 112 Stat. 3161, Oct. 31, 1998.

[17–134] For redesignation, see note 17–131.

[17–135] Section 729(g)(1)(B)(vi) of P.L. 104–193, 110 Stat. 2305, Aug. 22, 1996, amended this clause by striking "subparagraph (B)" each place it appears and inserting "subparagraph (A)".

[17–136] Section 204(n) of P.L. 103–448, 108 Stat. 4738, Nov. 2, 1994, amended this clause by striking "at 6-month intervals" and inserting "on a timely basis".

[17–137] For redesignation, see note 17–131.

(ii) The Secretary shall also provide technical assistance, on request, to State agencies [17–138] that desire to consider a cost containment system that covers more than 1 State agency.

(iii) The Secretary may waive the requirement of subparagraph (A) [17–139] in the case of any Indian State agency that has not more than 1,000 participants.

(D) [17–140] No State may enter into a cost containment contract (in this subparagraph referred to as the original contract") that prescribes conditions that would void, reduce the savings under, or otherwise limit the original contract if the State solicited or secured bids for, or entered into, a subsequent cost containment contract to take effect after the expiration of the original contract.

(E) [17–141] The Secretary shall offer to solicit bids on behalf of State agencies regarding cost-containment contracts to be entered into by infant formula manufacturers and State agencies. The Secretary shall make the offer to State agencies once every 12 months. Each such bid solicitation shall only take place if two or more State agencies request the Secretary to perform the solicitation. For such State agencies, the Secretary shall solicit bids and select the winning bidder for a cost containment contract to be entered into by State agencies and infant formula manufacturers or suppliers.

(F) [17–142] In soliciting bids for contracts for infant formula for the program authorized by this section, the Secretary shall solicit bids from infant formula manufacturers under procedures in which bids for rebates or discounts are solicited for milk-based and soy-based infant formula, separately, except where the Secretary determines that such solicitation procedures are not in the best interest of the program.

(G) [17–143] To reduce the costs of any supplemental foods, the Secretary may [17–144] make available additional funds to State agencies out of the funds otherwise available under paragraph (1)(A) for nutrition services and administration in an amount not exceeding one half of 1 percent of the amounts to help defray reasonable an-

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[17–138] Section 207 of P.L. 102–512, Oct. 24, 1992, amended this clause by striking "that do not have large caseloads and". Section 209 of P.L. 102–512, Oct. 24, 1992, provided that the authority provided by title II of P.L. 102–512 and the amendments made by such title (except with regard to section 17(h)(8)(J)) terminates on September 30, 1994. Effective October 1, 1994, section 204(o)(2) of P.L. 103–448, 108 Stat. 4742, Nov. 2, 1994, repealed section 209 of P.L. 102–512. Although the repeal of such section 209 is effective after the amendments made by such section 209 terminate, the repeal is treated as effective to effectuate the probable intent of Congress.

[17–139] Section 729(g)(1)(B)(vii) of P.L. 104–193, 110 Stat. 2305, Aug. 22, 1996, amended this clause by striking "subparagraph (B)" and inserting "subparagraph (A)".

[17–140] For redesignation, see note 17–131.

[17–141] Section 729(g)(1)(B)(ii) of P.L. 104–193, 110 Stat. 2304, Aug. 22, 1996, amended this subparagraph by striking "(i)" and striking clauses (ii) through (ix). For redesignation of subparagraph, see note 17–131.

Previously, section 204 of P.L. 102–512, Oct. 24, 1992, completely revised subpagraph (G) and added subparagraphs (H) through (K). Section 209 of P.L. 102–512, Oct. 24, 1992, provided that the authority provided by title II of P.L. 102–512 and the amendments made by such title (except with regard to section 17(h)(8)(J)) terminates on September 30, 1994. Effective October 1, 1994, section 204(o)(2) of P.L. 103–448, 108 Stat. 4742, Nov. 2, 1994, repealed section 209 of P.L. 102–512. Although the repeal of such section 209 is effective after the amendments made by such section 209 terminate, the repeal is treated as effective to effectuate the probable intent of Congress.

Former clause (ix) of the subparagraph added by section 204(o)(1) of P.L. 103–448, 108 Stat. 4741, Nov. 2, 1994.

[17–142] See notes 17–131 and 17–141.

[17–143] See notes 17–131 and 17–141.

[17–144] Section 729(g)(1)(B)(iii) of P.L. 104–193, 110 Stat. 2305, Aug. 22, 1996, amended this subparagraph by striking "Secretary—" and all that follows through "(v) may" and inserting "Secretary may".

ticipated expenses associated with innovations in cost containment or associated with procedures that tend to enhance competition.

(H) [17–145](i) Any person, company, corporation, or other legal entity that submits a bid to supply infant formula to carry out the program authorized by this section and announces or otherwise discloses the amount of the bid, or the rebate or discount practices of such entities, in advance of the time the bids are opened by the Secretary or the State agency, or any person, company, corporation, or other legal entity that makes a statement (prior to the opening of bids) relating to levels of rebates or discounts, for the purpose of influencing a bid submitted by any other person, shall be ineligible to submit bids to supply infant formula to the program for the bidding in progress for up to 2 years from the date the bids are opened and shall be subject to a civil penalty of up to $100,000,000, as determined by the Secretary to provide restitution to the program for harm done to the program. The Secretary shall issue regulations providing such person, company, corporation, or other legal entity appropriate notice, and an opportunity to be heard and to respond to charges.

(ii) The Secretary shall determine the length of the disqualification, and the amount of the civil penalty referred to in clause (i) based on such factors as the Secretary by regulation determines appropriate.

(iii) Any person, company, corporation, or other legal entity disqualified under clause (i) shall remain obligated to perform any requirements under any contract to supply infant formula existing at the time of the disqualification and until each such contract expires by its terms.

(I) [17–146] Not later than the expiration of the 180-day period beginning on the date of enactment of this subparagraph, the Secretary shall prescribe regulations to carry out this paragraph.

(J) [17–147] A State shall not incur any interest liability to the Federal Government on rebate funds for infant formula and other foods if all interest earned by the State on the funds is used for program purposes.

(9) For purposes of this subsection, the term "cost containment measure" means a competitive bidding, rebate, direct distribution, or home delivery system implemented by a State agency as described in its approved plan of operation and administration.

(10) [17–148](A) For each of fiscal years 1995 through 2003, [17–149] the Secretary shall use for the purposes specified in subparagraph (B), $10,000,000 or the amount of nutrition services and administration funds and supplemental foods funds [17–150] for the prior fiscal year that has not been obligated, whichever is less.

(B) Funds under subparagraph (A) shall be used for—

(i) development of infrastructure for the program under this section, including management information systems;

[17–145] See notes 17–131 and 17–141.

[17–146] See notes 17–131 and 17–141.

[17–147] This subparagraph added by section 204(p) of P.L. 103–448, 108 Stat. 4742, Nov. 2, 1994. For redesignation, see note 17–131.

[17–148] Paragraph (10) added by section 204(r) of P.L. 103–448, 108 Stat. 4742, Nov. 2, 1994.

[17–149] Section 203(k) of P.L. 105–336, 112 Stat. 3161, Oct. 31, 1998, amended this subparagraph by striking "1998" and inserting "2003".

[17–150] Section 203(n)(2)(A) of P.L. 105–336, 112 Stat. 3163, Oct. 31, 1998, amended this subparagraph by inserting after "nutrition services and administration funds" the following: "and supplemental foods funds".

(ii) special State projects of regional or national significance to improve the services of the program under this section; and

(iii) special breastfeeding support and promotion projects, including projects to assess the effectiveness of particular breastfeeding promotion strategies and to develop State or local agency capacity or facilities to provide quality breastfeeding services.

(11)[17–151] CONSIDERATION OF PRICE LEVELS OF RETAIL STORES FOR PARTICIPATION IN PROGRAM.—

(A) IN GENERAL.—For the purpose of promoting efficiency and to contain costs under the program, a State agency shall, in selecting a retail store for participation in the program, take into consideration the prices that the store charges for foods under the program as compared to the prices that other stores charge for the foods.

(B) SUBSEQUENT PRICE INCREASES.—The State agency shall establish procedures to ensure that a retail store selected for participation in the program does not subsequently raise prices to levels that would otherwise make the store ineligible for participation in the program.

(12)[17–152] MANAGEMENT INFORMATION SYSTEM PLAN.—

(A) IN GENERAL.—In consultation with State agencies, vendors, and other interested persons, the Secretary shall establish a long-range plan for the development and implementation of management information systems (including electronic benefit transfers) to be used in carrying out the program.

(B) REPORT.—Not later than 2 years after the date of enactment of this paragraph, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on actions taken to carry out subparagraph (A).

(C) INTERIM PERIOD.—Prior to the date of submission of the report of the Secretary required under subparagraph (B), a State agency may not require retail stores to pay the cost of systems or equipment that may be required to test electronic benefit transfer systems.

(i)[17–153](1) By the beginning of each fiscal year, the Secretary shall divide, among the State agencies, the amounts made available for food benefits under subsection (h)(1)(C)[17–154] on the basis of a formula determined by the Secretary.

[17–151] Paragraph (11) added by section 203(l)(1) of P.L. 105–336, 112 Stat. 3162, Oct. 31, 1998. Section 203(l)(2) of P.L. 105–336, 112 Stat. 3162, Oct. 31, 1998, requires the Secretary of Agriculture to promulgate (A) not later than March 1, 1999, proposed regulations to carry out paragraph (11), and (B) not later than March 1, 2000, final regulations to carry out paragraph (11).

[17–152] Paragraph (12) added by section 203(m) of P.L. 105–336, 112 Stat. 3162, Oct. 31, 1998.

[17–153] Section 353(a) of P.L. 99–500, 100 Stat. 1783–367, Oct. 18, 1986, amended this section by designating the first through fifth sentences as paragraphs (1), (2), (4), (5), and (6), respectively, and by inserting after newly designated paragraph (2) a new paragraph (3). Section 353(a) of P.L. 99–591, 100 Stat. 3341–370, Oct. 30, 1986, and section 4313(a) of P.L. 99–661, 100 Stat. 4078, Nov. 14, 1986, made the same amendments.

[17–154] Section 123(a)(7)(A) of P.L. 101–147, 103 Stat. 902, Nov. 10, 1989, amended this paragraph by striking "funds provided in accordance with this section" and inserting "amounts made available for food benefits under subsection (h)(1)(C)".

(2) Each State agency's allocation, as so determined, shall constitute the State agency's authorized operational level for that year, except that the Secretary shall reallocate funds periodically if the Secretary determines that a State agency is unable to spend its allocation.

(3) [17–155](A) Notwithstanding paragraph (2) and subject to subparagraph (B)—

(i) [17–156](I) not more than 1 percent (except as provided in subparagraph (C)) of the amount of funds allocated to a State agency under this section for supplemental foods for a fiscal year may be expended by the State agency for allowable expenses incurred under this section for supplemental foods during the preceding fiscal year; and

(II) not more than 1 percent of the amount of funds allocated to a State agency under this section for nutrition services and administration for a fiscal year may be expended by the State agency for allowable expenses incurred under this section for supplemental foods and nutrition services and administration during the preceding fiscal year; and

(ii) [17–157](I) for each fiscal year, of the amounts allocated to a State agency for nutrition services and administration, an amount equal to not more than 1 percent of the amount allocated to the State agency under this section for the fiscal year may be expended by the State agency for allowable expenses incurred under this section for nutrition services and administration during the subsequent fiscal year; and

(II) for each fiscal year, of the amounts allocated to a State agency for nutrition services and administration, an amount equal to not more than ½ of 1 percent of the amount allocated to the State agency under this section for the fiscal year may be expended by the State agency, with the prior approval of the Secretary, for the development of a management information system, including an electronic benefit transfer system, during the subsequent fiscal year.

(B) Any funds made available to a State agency in accordance with subparagraph (A)(ii) for a fiscal year shall not affect the amount of funds allocated to the State agency for such year.

[17–155] This paragraph added by section 353(a) of P.L. 99–500, 100 Stat. 1783–367, Oct. 18, 1986. Section 353(a) of P.L. 99–591, 100 Stat. 3341–370, Oct. 30, 1986, and section 4313(a) of P.L. 99–661, 100 Stat. 4078, Nov. 14, 1986, made the same addition. Section 12 of P.L. 100–237, 101 Stat. 1742, Jan. 8, 1988, amended this paragraph by inserting "and subject to subparagraphs (B) and (C)" after "paragraph (2)"; substituting "and" for "or" at the end of clause (i); and adding a new subparagraph (C) at the end of the paragraph. Section 203(n)(1)(A) of P.L. 105–336, 112 Stat. 3162, Oct. 31, 1998, amended this subparagraph by striking "subparagraphs (B) and (C)" and inserting "subparagraph (B)".

Section 203(n)(2)(B)(i) of P.L. 105–336, 112 Stat. 3163, Oct. 31, 1998, struck former subparagraphs (C) through (G) of this paragraph. Former subparagraph (D) added by section 3(b) of P.L. 100–356, 102 Stat. 670, June 28, 1988, and amended by section 123(a)(7)(B) of P.L. 101–147, 103 Stat. 903, Nov. 10, 1989. Former subparagraphs (E), (F), and (G) of subsection (i)(3) added by section 1 of P.L. 101–330, 104 Stat. 311, July 12, 1990.

[17–156] Section 203(n)(1)(B) of P.L. 105–336, 112 Stat. 3163, Oct. 31, 1998, amended clauses (i) and (ii) in their entirety. Previously, an effective date for former clause (i) was provided by section 353(b) of P.L. 99–500, 100 Stat. 1783–367, Oct. 18, 1986, section 353(b) of P.L. 99–591, 100 Stat. 3341–370, Oct. 30, 1986, and section 4313(b) of P.L. 99–661, 100 Stat. 4078, Nov. 14, 1986, and former clause (i) was amended by section 204(s)(1) of P.L. 103–448, 108 Stat. 4743, Nov. 2, 1994.

[17–157] See note 17–156.

(C) [17–158] The Secretary may authorize a State agency to expend not more than 3 percent of the amount of funds allocated to a State under this section for supplemental foods for a fiscal year for expenses incurred under this section for supplemental foods during the preceding fiscal year, if the Secretary determines that there has been a significant reduction in infant formula cost containment savings provided to the State agency that would affect the ability of the State agency to at least maintain the level of participation by eligible participants served by the State agency.

(4) For purposes of the formula, if Indians are served by the health department of a State, the formula shall be based on the State population inclusive of the Indians within the State boundaries.

(5) If Indians residing in the State are served by a State agency other than the health department of the State, the population of the tribes within the jurisdiction of the State being so served shall not be included in the formula for such State, and shall instead be included in the formula for the State agency serving the Indians.

(6) Notwithstanding any other provision of this section, the Secretary may use a portion of a State agency's allocation to purchase supplemental foods for donation to the State agency under this section.

(7) [17–159] In addition to any amounts expended under paragraph (3)(A)(i), any State agency using cost containment measures as defined in subsection (h)(9) may temporarily use amounts made available to such agency for the first quarter of a fiscal year to defray expenses for costs incurred during the final quarter of the preceding fiscal year. In any fiscal year, any State agency that uses amounts made available for a succeeding fiscal year under the authority of the preceding sentence shall restore or reimburse such amounts when such agency receives payment as a result of its cost containment measures for such expenses.

(j) [17–160](1) The Secretary and the Secretary of Health and Human Services (referred to in this subsection as the "Secretaries") shall jointly establish and carry out an initiative for the purpose of providing both supplemental foods and nutrition education under the special supplemental nutrition program and health care services to low-income pregnant, postpartum, and breastfeeding women, infants, and children at substantially more community health centers and migrant health centers.

(2) The initiative shall also include—

(A) activities to improve the coordination of the provision of supplemental foods and nutrition education under the special supplemental nutrition program and health care services at facilities funded by the Indian Health Service; and

(B) the development and implementation of strategies to ensure that, to the maximum extent feasible, new community health centers, migrant health centers, and other federally supported health care facilities established in medically under-

[17–158] This subparagraph added by section 204(s)(2) of P.L. 103–448, 108 Stat. 4743, Nov. 2, 1994, and redesignated by section 203(n)(2)(B)(ii) of P.L. 105–336, 112 Stat. 3163, Oct. 31, 1998. See note 17–155.

[17–159] Paragraph (7) added by section 123(a)(7)(C) of P.L. 101–147, 103 Stat. 902, Nov. 10, 1989.

[17–160] Section 204(t)(2) of P.L. 103–448, 108 Stat. 4743, Nov. 2, 1994, struck former subsection (j) (relating to migrant reports), as amended by section 123(a)(8) of P.L. 101–147, 103 Stat. 902, Nov. 10, 1989. Section 204(u) of P.L. 103–448, 108 Stat. 4743, Nov. 2, 1994, added a new subsection (j).

served areas provide supplemental foods and nutrition education under the special supplemental nutrition program.

(3) The initiative may include—

(A) outreach and technical assistance for State and local agencies and the facilities described in paragraph (2)(A) and the health centers and facilities described in paragraph (2)(B);

(B) demonstration projects in selected State or local areas; and

(C) such other activities as the Secretaries find are appropriate.

(4)(A) Not later than April 1, 1995, the Secretaries shall provide to Congress a notification concerning the actions the Secretaries intend to take to carry out the initiative.

(B) Not later than July 1, 1996, the Secretaries shall provide to Congress a notification concerning the actions the Secretaries are taking under the initiative or actions the Secretaries intend to take under the initiative as a result of their experience in implementing the initiative.

(C) On completion of the initiative, the Secretaries shall provide to Congress a notification concerning an evaluation of the initiative by the Secretaries and a plan of the Secretaries to further the goals of the initiative.

(5) As used in this subsection:

(A) The term "community health center" has the meaning given the term in section 330(a) of the Public Health Service Act (42 U.S.C. 254c(a)).

(B) The term "migrant health center" has the meaning given the term in section 329(a)(1) of such Act (42 U.S.C. 254b(a)(1)).

(k)(1) There is hereby established a National Advisory Council on Maternal, Infant, and Fetal Nutrition (referred to in this subsection as the "Council") composed of 24 [17–161] members appointed by the Secretary. One member shall be a State director of a program under this section; one member shall be a State official responsible for a commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977 [(7 U.S.C. 612c note)]; one member shall be a State fiscal officer of a program under this section (or the equivalent thereof); one member shall be a State health officer (or the equivalent thereof); one member shall be a local agency director of a program under this section in an urban area; one member shall be a local agency director of a program under this section in a rural area; one member shall be a project director of a commodity supplemental food program; one member shall be a State public health nutrition director (or the equivalent thereof); one member shall be a representative of an organization serving migrants; one member shall be an official from a State agency predominantly serving Indians; three members shall be parent participants of a program under this section or of a commodity supplemental food program; one member shall be a pediatrician; one member shall be an obstetrician; one member shall be a representative of a nonprofit public interest organization that has experience with and knowledge of the special supplemental nutrition

[17–161] Section 3201(5)(A) of P.L. 100–690, 102 Stat. 4246, Nov. 18, 1988, changed the composition of the Council from twenty-one to twenty-three members. Section 123(a)(9)(A) of P.L. 101–147, 103 Stat. 903, Nov. 10, 1989, changed the composition of the Council from twenty-three to 24 members.

program;[17–162] one member shall be a person involved at the retail sales level of food in the special supplemental nutrition program;[17–162] two members shall be officials of the Department of Health and Human Services appointed by the Secretary of Health and Human Services; two members shall be officials of the Department of Agriculture appointed by the Secretary; 1 member shall be an expert in the promotion of breast feeding;[17–163] one member shall be an expert in drug abuse education and prevention; and one member shall be an expert in alcohol abuse education and prevention.[17–164]

(2) Members of the Council appointed from outside the Department of Agriculture and the Department of Health and Human Services shall be appointed for terms not exceeding three years. State and local officials shall serve only during their official tenure, and the tenure of parent participants shall not exceed two years. Persons appointed to complete an unexpired term shall serve only for the remainder of such term.

(3) The Council shall elect[17–165] a Chairman and a Vice Chairman. The Council shall meet at the call of the Chairman, but shall meet at least once a year. Eleven members shall constitute a quorum.

(4)[17–166] The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions.

(5)[17–167] Members of the Council shall serve without compensation but shall be reimbursed for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council. Parent participant members of the Council, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated in advance for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings.

(l) Foods available under section 416 of the Agriculture Act of 1949 **[**(7 U.S.C. 1431)**]**, including, but not limited to, dry milk, or purchased under section 32 of the Act of August 24, 1935 **[**(7 U.S.C. 612c)**]** may be donated by the Secretary, at the request of a State agency, for distribution to programs conducted under this section. The Secretary may purchase and distribute, at the request of a State agency, supplemental foods for donation to programs conducted under this section, with appropriated funds, including funds appropriated under this section.

[17–162] Section 204(w)(1)(C) of P.L. 103–448, 108 Stat. 4746, Nov. 2, 1994, amended this paragraph by striking "special supplemental food program" each place it appears and inserting "special supplemental nutrition program".

[17–163] Section 123(a)(9)(B) of P.L. 101–147, 103 Stat. 903, Nov. 10, 1989, added this clause providing for 1 member who is an expert in the promotion of breast feeding.

[17–164] Section 3201(5)(B) of P.L. 100–690, 102 Stat. 4246, Nov. 18, 1988, added these last two clauses providing for the area of expertise for the 2 new members added by section 3501(5)(A) of this Act.

[17–165] Section 729(h) of P.L. 104–193, 110 Stat. 2305, Aug. 22, 1996, amended this paragraph by striking "Secretary shall designate" and inserting "Council shall elect"..

[17–166] Section 101 of P.L. 105–362, 112 Stat. 3281, Nov. 10, 1998, struck former paragraph (4) and redesignated former paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

[17–167] See note 17–166.

(m) [17–168](1) Subject to the availability of funds appropriated for the purposes of this subsection, and as specified in this subsection, the Secretary shall award grants to States that submit State plans that are approved for the establishment or maintenance of programs designed to provide recipients of assistance under subsection (c), or those who are on the waiting list to receive the assistance, with coupons that may be exchanged for fresh, nutritious, unprepared foods at farmers' markets, as defined in the State plans submitted under this subsection.

(2) A grant provided to any State under this subsection shall be provided to the chief executive officer of the State, who shall—

(A) designate the appropriate State agency or agencies to administer the program in conjunction with the appropriate nonprofit organizations; and

(B) ensure coordination of the program among the appropriate agencies and organizations.

(3) The Secretary shall not make a grant to any State under this subsection unless the State agrees to provide State, local, or private funds for the program in an amount that is equal to not less than 30 percent of the total cost of the program, which may be satisfied from program income or [17–169] State contributions that are made for similar programs. The Secretary may negotiate with an Indian State agency a lower percentage of matching funds than is required under the preceding sentence, but not lower than 10 percent of the total cost of the program, if the Indian State agency demonstrates to the Secretary financial hardship for the affected Indian tribe, band, group, or council. [17–170]

(4) Subject to paragraph (6), the Secretary shall establish a formula for determining the amount of the grant to be awarded under this subsection to each State for which a State plan is approved under paragraph (6), according to the number of recipients proposed to participate as specified in the State plan. In determining the amount to be awarded to new States, the Secretary shall rank order the State plans according to the criteria of operation set forth in this subsection, and award grants accordingly. The Secretary shall take into consideration the minimum amount needed to fund each approved State plan, and need not award grants to each State that submits a State plan.

(5) Each State that receives a grant under this subsection shall ensure that the program for which the grant is received complies with the following requirements:

(A) Individuals who are eligible to receive Federal benefits under the program shall only be individuals who are receiving assistance under subsection (c), or who are on the waiting list to receive the assistance.

(B) Construction or operation of a farmers' market may not be carried out using funds—

[17–168] Subsection (m) was amended in its entirety by section 3 of the WIC Farmers' Market Nutrition Act of 1992, P.L. 102–314, July 2, 1992, effective October 1, 1991. Subsection was originally added by section 501 of P.L. 100–435, 102 Stat. 1668, Sept. 19, 1988, and amended by section 326(b)(4) of P.L. 101–147, 103 Stat. 918, Nov. 10, 1989.

Section 204(v)(12) of P.L. 103–448, 108 Stat. 4745, Nov. 2, 1994, requires the Secretary to promote the use of farmers' markets by recipients of Federal nutrition programs administered by the Secretary.

[17–169] Section 203(o)(1) of P.L. 105–336, 112 Stat. 3163, Oct. 31, 1998, amended this sentence by inserting "program income or" after "satisfied from".

[17–170] This sentence added by section 204(v)(1) of P.L. 103–448, 108 Stat. 4744, Nov. 2, 1994.

(i) provided under the grant; or

(ii) required to be provided by the State under paragraph (3).

(C) The value of the Federal share of the benefits received by any recipient under the program may not be—

(i) less than $10 per year; or

(ii) more than $20 per year.

(D) The coupon issuance process under the program shall be designed to ensure that coupons are targeted to areas with—

(i) the highest concentration of eligible individuals;

(ii) the greatest access to farmers' markets; and

(iii) certain characteristics, in addition to those described in clauses (i) and (ii), that are determined to be relevant by the Secretary and that maximize the availability of benefits to eligible individuals.

(E) The coupon redemption process under the program shall be designed to ensure that the coupons may be—

(i) redeemed only by producers authorized by the State to participate in the program; and

(ii) redeemed only to purchase fresh nutritious unprepared food for human consumption.

(F)(i) Except as provided in clauses (ii) and (iii), the State may use for administration of the program in any fiscal year not more than 17 percent [17–171] of the total amount of program funds.

(ii) [17–172] During any fiscal year for which a State receives assistance under this subsection, the Secretary shall permit the State to use not more than 2 percent of total program funds for market development or technical assistance to farmers' markets if the Secretary determines that the State intends to promote the development of farmers' markets in socially or economically disadvantaged areas, or remote rural areas, where individuals eligible for participation in the program have limited access to locally grown fruits and vegetables.

(iii) The provisions of clauses (i) and (ii) with respect to the use of program funds [17–173] shall not apply to any funds that a State may contribute in excess of the funds used by the State to meet the requirements of paragraph (3).

(G) The State shall ensure that no State or local taxes are collected within the State on purchases of food with coupons distributed under the program.

(6)(A) [17–174] The Secretary shall give the same preference for funding under this subsection to eligible States that participated in the program under this subsection in a prior fiscal year as to States that participated in the program in the most recent fiscal year. The Secretary shall inform each State of the award of funds as prescribed by subparagraph (G) by February 15 of each year.

(B)(i) Subject to the availability of appropriations, if a State provides the amount of matching funds required under paragraph (3), the State shall receive assistance under this subsection in an

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[17–171] Section 204(v)(2)(A) of P.L. 103–448, 108 Stat. 4744, Nov. 2, 1994, amended this clause by striking "15 percent" and inserting "17 percent".

[17–172] Clause (ii) amended in its entirety by section 204(v)(2)(B) of P.L. 103–448, 108 Stat. 4744, Nov. 2, 1994.

[17–173] Section 204(v)(2)(C) of P.L. 103–448, 108 Stat. 4744, Nov. 2, 1994, amended this clause by striking "for the administration of the program".

[17–174] Subparagraph (A) amended in its entirety by section 204(v)(3) of P.L. 103–448, 108 Stat. 4744, Nov. 2, 1994.

amount that is not less than the amount of such assistance that the State received in the most recent fiscal year in which it received such assistance.

(ii) If amounts appropriated for any fiscal year pursuant to the authorization contained in paragraph (10) for grants under this subsection are not sufficient to pay to each State for which a State plan is approved under paragraph (6) the amount that the Secretary determines each such State is entitled to under this subsection, each State's grant shall be ratably reduced, except that (if sufficient funds are available) each State shall receive at least $75,000 [17–175] or the amount that the State received for the prior fiscal year if that amount is less than $75,000. [17–175]

(C) In providing funds to [17–176] a State that received assistance under this subsection in the previous fiscal year, the Secretary shall consider—

(i) the availability of any such assistance not spent by the State during the program year for which the assistance was received;

(ii) [17–177] documentation that demonstrates that—

(I) there is a need for an increase in funds; and

(II) the use of the increased funding will be consistent with serving nutritionally at-risk persons and expanding the awareness and use of farmers' markets;

(iii) demonstrated ability to satisfactorily operate the existing program; and

(iv) [17–178] whether, in the case of a State that intends to use any funding provided under subparagraph (G)(i) [17–179] to increase the value of the Federal share of the benefits received by a recipient, the funding provided under subparagraph (G)(i) [17–179] will increase the rate of coupon redemption.

(D)(i) A State that desires to receive a grant under this subsection shall submit, for each fiscal year, a State plan to the Secretary by November 15 of each year. [17–180]

(ii) Each State plan submitted under this paragraph shall contain—

(I) the estimated cost of the program and the estimated number of individuals to be served by the program;

(II) a description of the State plan for complying with the requirements established in paragraph (5); and

(III) criteria developed by the State with respect to authorization of producers to participate in the program.

(iii) The criteria developed by the State as required by clause (ii)(III) shall require any authorized producer to sell fresh nutritious unprepared foods (such as fruits and vegetables) to recipients, in exchange for coupons distributed under the program.

(E) The Secretary shall establish objective criteria for the approval and ranking of State plans submitted under this paragraph.

[17–175] Section 204(v)(4) of P.L. 103–448, 108 Stat. 4745, Nov. 2, 1994, amended this clause by striking "$50,000" each place it appears and inserting "$75,000".

[17–176] Section 203(o)(2)(A) of P.L. 105–336, 112 Stat. 3163, Oct. 31, 1998, amended this subparagraph by striking "serve additional recipients in".

[17–177] Section 203(o)(2)(B) of P.L. 105–336, 112 Stat. 3163, Oct. 31, 1998, amended this clause in its entirety.

[17–178] Section 203(o)(2)(C) and (D) of P.L. 105–336, 112 Stat. 3163, Oct. 31, 1998, added clause (iv) and made a conforming amendment to clause (iii).

[17–179] So in original. Probably should refer to "subparagraph (F)(i)" in both places.

[17–180] Section 204(v)(5) of P.L. 103–448, 108 Stat. 4745, Nov. 2, 1994, amended this clause by striking "at such time and in such manner as the Secretary may reasonably require" and inserting "by November 15 of each year".

(F)[17–181](i) An amount equal to 75 percent[17–182] of the funds available after satisfying the requirements of subparagraph (B) shall be made available to States participating in the program whose State plan[17–183] is approved by the Secretary. If this amount is greater than that necessary to satisfy the approved State plans,[17–184] the unallocated amount shall be applied toward satisfying any unmet need of States that have not participated in the program in the prior fiscal year, and whose State plans have been approved.

(ii) An amount equal to 25 percent[17–185] of the funds available after satisfying the requirements of subparagraph (B) shall be made available to States that have not participated in the program in the prior fiscal year, and whose State plans have been approved by the Secretary. If this amount is greater than that necessary to satisfy the approved State plans for new States, the unallocated amount shall be applied toward satisfying any unmet need of States[17–186] whose State plans have been approved.

(iii) In any fiscal year, any funds that remain unallocated after satisfying the requirements of clauses (i) and (ii) shall be reallocated in the following fiscal year according to procedures established pursuant to paragraph (10)(B)(ii).

(7)(A) The value of the benefit received by any recipient under any program for which a grant is received under this subsection may not affect the eligibility or benefit levels for assistance under other Federal or State programs.

(B) Any programs for which a grant is received under this subsection shall be supplementary to the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) and to any other Federal or State program under which foods are distributed to needy families in lieu of food stamps.

(8) For each fiscal year, the Secretary shall collect from each State that receives a grant under this subsection information relating to—

(A) the number and type of recipients served by both Federal and non-Federal benefits under the program for which the grant is received;

(B) the rate of redemption of coupons distributed under the program;

(C) the average amount distributed in coupons to each recipient;

(D)[17–187] the change in consumption of fresh fruits and vegetables by recipients, if the information is available;

(E)[17–187] the effects of the program on farmers' markets, if the information is available; and

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[17–181] Section 203(o)(3) of P.L. 105–336, 112 Stat. 3164, Oct. 31, 1998, struck former subparagraph (F) as redesignated former subparagraph (G) as subparagraph (F).

[17–182] Section 204(v)(6)(A) of P.L. 103–448, 108 Stat. 4745, Nov. 2, 1994, amended this clause by striking "45 to 55 percent" and inserting "75 percent".

[17–183] Section 203(o)(4)(A)(i) of P.L. 105–336, 112 Stat. 3164, Oct. 31, 1998, amended this sentence by striking "that wish" and all follows through "to do so" and inserting "whose State plan".

[17–184] Section 203(o)(4)(A)(ii) of P.L. 105–336, 112 Stat. 3164, Oct. 31, 1998, amended this sentence by striking "for additional recipients".

[17–185] Section 204(v)(6)(B) of P.L. 103–448, 108 Stat. 4745, Nov. 2, 1994, amended this clause by striking "45 to 55 percent" and inserting "25 percent".

[17–186] Section 203(o)(4)(B) of P.L. 105–336, 112 Stat. 3164, Oct. 31, 1998, amended this sentence by striking "that desire to serve additional recipients, and".

[17–187] Subparagraphs (D) and (E) completely revised by section 204(v)(7) of P.L. 103–448, 108 Stat. 4745, Nov. 2, 1994.

(F) any other information determined to be necessary by the Secretary.

(9) [17–188] FUNDING.—

(A) IN GENERAL.—

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection [17–189] $8,000,000 for fiscal year 1994, $10,500,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 2003. [17–190]

(ii) [17–190A] MANDATORY FUNDING.—Not later than 30 days after the date of enactment of the Food Stamp Reauthorization Act of 2002, of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this subsection $15,000,000, to remain available until expended.

(B)(i)(I) Each [17–191] State shall return to the Secretary any funds made available to the State that are unobligated at the end of the fiscal year for which the funds were originally allocated. The unexpended funds shall be returned to the Secretary by February 1st of the following fiscal year.

(II) Notwithstanding any other provision of this subsection, a total of not more than 5 percent of funds made available to a State for any fiscal year may be expended by the State to reimburse expenses incurred for a program assisted under this subsection during the preceding fiscal year. [17–192]

(ii) The Secretary shall establish procedures to reallocate funds that are returned under clause (i). [17–193]

(10) [17–194] For purposes of this subsection:

(A) The term "coupon" means a coupon, voucher, or other negotiable financial instrument by which benefits under this section are transferred.

(B) The term "program" means—

(i) the State farmers' market coupon nutrition program authorized by this subsection (as it existed on September 30, 1991); or

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[17–188] Sec. 1011(l) of the Federal Reports Elimination and Sunset Act of 1995, P.L. 104–66, 109 Stat. 710, Dec. 21, 1995, struck former paragraph (9) (relating to a compilation of information collected under paragraph (8)) and redesignated formers paragraphs (10) and (11) as paragraphs (9) and (10), respectively.

Sec. 4307(a)(1) of P.L. 107–171, 116 Stat. 332, May 13, 2002, amended para. (9) by striking "(9)(A) There" and inserting "(9) FUNDING.—" and all that follows through "(i) AUTHORIZATION OF APPROPRIATIONS.—There".

[17–189] Section 204(v)(8)(A) of P.L. 103–448, 108 Stat. 4745, Nov. 2, 1994, amended this subparagraph by striking "$3,000,000 for fiscal year 1992, $6,500,000 for fiscal year 1993, and".

[17–190] Section 204(v)(8)(B) of P.L. 103–448, 108 Stat. 4745, Nov. 2, 1994, amended this subparagraph by inserting before the period at the end ", $10,500,000 for fiscal year 1995, and such sums as may be necessary for each of fiscal years 1996 through 1998". Section 203(o)(5) of P.L. 105–336, 112 Stat. 3164, Oct. 31, 1998, amended this subparagraph by striking "1998" and inserting "2003".

[17–190A] Clause (ii) added by sec. 4307(a)(2) of P.L. 107–171, 116 Stat. 332, May 13, 2002.

[17–191] Section 204(v)(9)(A) of P.L. 103–448, 108 Stat. 4745, Nov. 2, 1994, amended this subclause by striking "Except as provided in subclause (II), each" and inserting "Each".

[17–192] Section 204(v)(9)(B) of P.L. 103–448, 108 Stat. 4745, Nov. 2, 1994, amended this subclause by striking "or may be retained by the State to reimburse expenses expected to be incurred for such a program during the succeeding fiscal year".

[17–193] Section 204(v)(10) of P.L. 103–448, 108 Stat. 4745, Nov. 2, 1994, amended this clause by striking the second sentence (relating to the reallocation of unexpended funds with respect to demonstration projects).

[17–194] See note 17–188.

(ii) the farmers' market nutrition program authorized by this subsection.

(C) The term "recipient" means a person or household, as determined by the State, who is chosen by a State to receive benefits under this subsection, or who is on a waiting list to receive such benefits.

(D) The term "State agency" has the meaning provided in subsection (b)(13), except that the term also includes the agriculture department of each State and any other agency approved by the chief executive officer of the State.[17–195]

(n)[17–196] DISQUALIFICATION OF VENDORS WHO ARE DISQUALIFIED UNDER THE FOOD STAMP PROGRAM.—

(1) IN GENERAL.—The Secretary shall issue regulations providing criteria for the disqualification under this section of an approved vendor that is disqualified from accepting benefits under the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

(2) TERMS.—A disqualification under paragraph (1)—

(A) shall be for the same period as the disqualification from the program referred to in paragraph (1);

(B) may begin at a later date than the disqualification from the program referred to in paragraph (1); and

(C) shall not be subject to judicial or administrative review.

(o)[17–197] DISQUALIFICATION OF VENDORS CONVICTED OF TRAFFICKING OR ILLEGAL SALES.—

(1) IN GENERAL.—Except as provided in paragraph (4), a State agency shall permanently disqualify from participation in the program authorized under this section a vendor convicted of—

(A) trafficking in food instruments (including any voucher, draft, check, or access device (including an electronic benefit transfer card or personal identification number) issued in lieu of a food instrument under this section); or

(B) selling firearms, ammunition, explosives, or controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) in exchange for food instruments (including any item described in subparagraph (A) issued in lieu of a food instrument under this section).

(2) NOTICE OF DISQUALIFICATION.—The State agency shall—

(A) provide the vendor with notification of the disqualification; and

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[17–195] Section 204(v)(11) of P.L. 103–448, 108 Stat. 4745, Nov. 2, 1994, amended this subparagraph by inserting "and any other agency approved by the chief executive officer of the State".

[17–196] Section 729(i) and (j) of P.L. 104–193, 110 Stat. 2305, Aug. 22, 1996, struck former subsections (n), (o), and (p) and added a new subsection (n). Former subsection (n) added by section 3201(6) of P.L. 100–690, 102 Stat. 4246, Nov. 18, 1988, and amended by section 326(b)(5) of P.L. 101–147, 103 Stat. 918, Nov. 10, 1989. Former subsection (o) added by section 123(a)(10) of P.L. 101–147, 103 Stat. 903, Nov. 10, 1989, and amended by section 204(w)(1)(D) of P.L. 103–448, 108 Stat. 4746, Nov. 2, 1994. Former subsection (p) added by section 123(a)(10) of P.L. 101–147, 103 Stat. 903, Nov. 10, 1989.

[17–197] Subsection (o) added by section 203(p)(1) of P.L. 105–336, 112 Stat. 3164, Oct. 31, 1998. Section 203(p)(2) of P.L. 105–336, 112 Stat. 3165, Oct. 31, 1998, requires the Secretary of Agriculture to promulgate (A) not later than March 1, 1999, proposed regulations to carry out subsection (o), and (B) not later than March 1, 2000, final regulations to carry out subsection (o).

(B) make the disqualification effective on the date of receipt of the notice of disqualification.

(3) PROHIBITION OF RECEIPT OF LOST REVENUES.—A vendor shall not be entitled to receive any compensation for revenues lost as a result of disqualification under this subsection.

(4) EXCEPTIONS IN LIEU OF DISQUALIFICATION.—

(A) IN GENERAL.—A State agency may permit a vendor that, but for this paragraph, would be disqualified under paragraph (1), to continue to participate in the program if the State agency determines, in its sole discretion according to criteria established by the Secretary, that—

(i) disqualification of the vendor would cause hardship to participants in the program authorized under this section; or

(ii)(I) the vendor had, at the time of the violation under paragraph (1), an effective policy and program in effect to prevent violations described in paragraph (1); and

(II) the ownership of the vendor was not aware of, did not approve of, and was not involved in the conduct of the violation.

(B) CIVIL PENALTY.—If a State agency under subparagraph (A) permits a vendor to continue to participate in the program in lieu of disqualification, the State agency shall assess the vendor a civil penalty in an amount determined by the State agency, in accordance with criteria established by the Secretary, except that—

(i) the amount of the civil penalty shall not exceed $10,000 for each violation; and

(ii) the amount of civil penalties imposed for violations investigated as part of a single investigation may not exceed $40,000.

(p) [17–198] CRIMINAL FORFEITURE.—

(1) IN GENERAL.—Notwithstanding any provision of State law and in addition to any other penalty authorized by law, a court may order a person that is convicted of a violation of a provision of law described in paragraph (2), with respect to food instruments (including any item described in subsection (o)(1)(A) issued in lieu of a food instrument under this section), funds, assets, or property that have a value of $100 or more and that are the subject of a grant or other form of assistance under this section, to forfeit to the United States all property described in paragraph (3).

(2) APPLICABLE LAWS.—A provision of law described in this paragraph is—

(A) section 12(g) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(g)); and

(B) any other Federal law imposing a penalty for embezzlement, willful misapplication, stealing, obtaining by fraud, or trafficking in food instruments (including any item described in subsection (o)(1)(A) issued in lieu of a food instrument under this section), funds, assets, or property.

[17–198] Subsection (p) added by section 203(q) of P.L. 105–336, 112 Stat. 3165, Oct. 31, 1998.

(3) PROPERTY SUBJECT TO FORFEITURE.—The following property shall be subject to forfeiture under paragraph (1):

(A) All property, real and personal, used in a transaction or attempted transaction, to commit, or to facilitate the commission of, a violation described in paragraph (1).

(B) All property, real and personal, constituting, derived from, or traceable to any proceeds a person obtained directly or indirectly as a result of a violation described in paragraph (1).

(4) PROCEDURES; INTEREST OF OWNER.—Except as provided in paragraph (5), all property subject to forfeiture under this subsection, any seizure or disposition of the property, and any proceeding relating to the forfeiture, seizure, or disposition shall be subject to section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section.

(5) PROCEEDS.—The proceeds from any sale of forfeited property and any amounts forfeited under this subsection shall be used—

(A) first, to reimburse the Department of Justice, the Department of the Treasury, and the United States Postal Service for the costs incurred by the Departments or Service to initiate and complete the forfeiture proceeding;

(B) second, to reimburse the Office of Inspector General of the Department of Agriculture for any costs incurred by the Office in the law enforcement effort resulting in the forfeiture;

(C) third, to reimburse any Federal, State, or local law enforcement agency for any costs incurred in the law enforcement effort resulting in the forfeiture; and

(D) fourth, by the State agency to carry out approval, reauthorization, and compliance investigations of vendors.

(q) [17–199] The Secretary of Agriculture shall provide technical assistance to the Secretary of Defense, if so requested by the Secretary of Defense, for the purpose of carrying out the overseas special supplemental food program established under section 1060a(a) of title 10, United States Code.

(r) [17–200] DEMONSTRATION PROJECT RELATING TO USE OF THE WIC PROGRAM FOR IDENTIFICATION AND ENROLLMENT OF CHILDREN IN CERTAIN HEALTH PROGRAMS.—

(1) IN GENERAL.—In accordance with paragraph (2), the Secretary shall establish a demonstration project in not more than 20 local agencies [17–201] in one State under which costs of nutrition services and administration (as defined in subsection (b)(4)) shall include the costs of identification of children eligible for benefits under, and the provision of enrollment assistance for children in—

(A) the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

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[17–199] Subsection (q) added by section 674(e) of P.L. 106–65, 113 Stat. 512, Oct. 5, 1999.

[17–200] Effective October 1, 2000, subsection (r) added by section 242(b)(1) of P.L. 106–224, 114 Stat. 411, June 20, 2000. Section 12(p)(1)(A)(i) of the National School Lunch Act (42 U.S.C. 1760(p)(1)(A)(i)) requires the Secretary to make grants to a State for purposes that include carrying out the demonstration project under this subsection.

[17–201] Effective October 1, 2000, section 307(b)(2) of P.L. 106–472, 114 Stat. 2073, November 9, 2000, amended this paragraph by striking "at least 20 local agencies" and inserting "not more than 20 local agencies".

(B) the State children's health insurance program under title XXI of that Act (42 U.S.C. 1397aa et seq.).

(2) STATE-RELATED REQUIREMENTS.—The State in which a demonstration project is established under paragraph (1)—

(A) shall operate not fewer than 20 pilot site locations;

(B) as of the date of establishment of the demonstration project—

(i) with respect to the programs referred to in subparagraphs (A) and (B) of paragraph (1)—

(I) shall have in use a simplified application form with a length of not more than two pages;

(II) shall accept mail-in applications; and

(III) shall permit enrollment in the program in a variety of locations; and

(ii) shall have served as an original pilot site for the program under this section; and

(C) as of December 31, 1998, shall have had—

(i) an infant mortality rate that is above the national average; and

(ii) an overall rate of age-appropriate immunizations against vaccine-preventable diseases that is below 80 percent.

(3) TERMINATION OF AUTHORITY.—The authority provided by this subsection terminates September 30, 2003.

[CASH GRANTS FOR NUTRITION EDUCATION]

[SEC. 18.[18–1] [42 U.S.C. 1787]]

NUTRITION EDUCATION AND TRAINING

SEC. 19.[19–1] [42 U.S.C. 1788] (a) Congress finds that effective dissemination of scientifically valid information to children participating or eligible to participate in the school lunch and related child nutrition programs should be encouraged.[19–2]

PURPOSE

(b) It is the purpose of this section to establish[19–3] a system of grants to State educational agencies for the development of comprehensive nutrition education and training[19–4] programs. Such nu-

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[18–1] Section 730 of P.L. 104–193, 110 Stat. 2305, Aug. 22, 1996, repealed section 18. Section 18 originally added by section 23 of P.L. 94–105, 89 Stat. 528, Oct. 7, 1977.

[19–1] This section added by section 15 of P.L. 95–166, 91 Stat. 1340, Nov. 10, 1977.

Section 731(f) of P.L. 104–193, 110 Stat. 2307, Aug. 22, 1996, struck subsection (j). Subsection (j) originally added by section 124(4) of P.L. 101–147, 103 Stat. 906, Nov. 10, 1989.

Section 21(c)(2)(E) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b–1(c)(2)(E)) requires any food service management institute established under section 21(a)(2) of such Act to act as a clearinghouse for research, studies, and findings concerning all aspects of the operation of food service programs, including activities carried out under this section.

[19–2] Section 731(a)(1) of P.L. 104–193, 110 Stat. 2305, Aug. 22, 1996, amended this subsection by striking "that—" and all that follows through the period at the end and inserting "that effective dissemination of scientifically valid information to children participating or eligible to participate in the school lunch and related child nutrition programs should be encouraged.".

[19–3] Section 731(a)(2) of P.L. 104–193, 110 Stat. 2306, Aug. 22, 1996, amended this subsection by striking "encourage" and all that follows through "establishing" and inserting "establish".

[19–4] Section 205(a) of P.L. 103–448, 108 Stat. 4746, Nov. 2, 1994, amended subsections (b), (c), (d)(1), (f)(1)(G), and (j)(1) by striking "information and education" each place it appears and inserting "education and training".

trition education programs shall fully use as a learning laboratory the school lunch and child nutrition programs.

DEFINITIONS

(c) For purposes of this section, the term "nutrition education and training [19–5] program" means a multidisciplinary program by which scientifically valid information about foods and nutrients is imparted in a manner that individuals receiving such information will understand the principles of nutrition and seek to maximize their well-being through food consumption practices. Nutrition education programs shall include, but not be limited to, (A) instructing students with regard to the nutritional value of foods and the relationship between food and human health; (B) training child nutrition program [19–6] personnel in the principles and practices of food service management; (C) instructing teachers in sound principles of nutrition education; (D) developing and using classroom materials and curricula; and (E) providing information to parents and caregivers regarding the nutritional value of food and the relationship between food and health. [19–7]

NUTRITION INFORMATION AND TRAINING

(d)(1) The Secretary is authorized to formulate and carry out a nutrition education and training [19–8] through a system of grants to State educational agencies, to provide for (A) the nutritional training of educational and food service personnel, (B) training school food service personnel in the principles and practices of food service management, in cooperation with materials developed at any food service management institute established as authorized by section 21(a)(2) of the Richard B. Russell National School Lunch Act, [19–9] and (C) the conduct of nutrition education activities in schools, child care institutions, and institutions offering summer food service programs under section 13 of the Richard B. Russell National School Lunch Act, [19–10] and the provision of nutrition education to parents and caregivers. [19–11]

(2) The program is to be coordinated at the State level with other nutrition activities conducted by education, health, and State Cooperative Extension Service agencies. In formulating the program, the Secretary and the State may solicit the advice and recommendations of State educational agencies, the Department of Health and Human Services, and other interested groups and individuals concerned with improvement of child nutrition. [19–12]

[19–5] See note 19–4.

[19–6] Section 205(b)(1) of P.L. 103–448, 108 Stat. 4746, Nov. 2, 1994, amended this subparagraph by striking "school food service" and inserting "child nutrition program".

[19–7] Section 205(b)(2) and (3) of P.L. 103–448, 108 Stat. 4746, Nov. 2, 1994, amended this subsection by striking "and" at the end of subparagraph (C) and by inserting subparagraph (E).

[19–8] See note 19–4.

[19–9] Section 124(1)(A)(i) of P.L. 101–147, 103 Stat. 905, Nov. 10, 1989, amended subsection (d)(1)(B) to read as provided above.

[19–10] Section 124(1)(A)(ii) of P.L. 101–147, 103 Stat. 905, Nov. 10, 1989, amended subsection (d)(1)(C) by striking "schools and child care institutions" and inserting "schools, child care institutions, and institutions offering summer food service programs under section 13 of the National School Lunch Act".

[19–11] Section 205(c)(1) of P.L. 103–448, 108 Stat. 4746, Nov. 2, 1994, amended this subparagraph by inserting before the period at the end the following: ", and the provision of nutrition education to parents and caregivers".

[19–12] Section 124(1)(B) of P.L. 101–147, 103 Stat. 905, Nov. 10, 1989, amended subsection (d)(2) by striking "the National Advisory Council on Child Nutrition;".

Continued

(3) If a State educational agency is conducting or applying to conduct a health education program which includes a school-related nutrition education component as defined by the Secretary, and that health education program is eligible for funds under programs administered by the Department of Health and Human Services, the Secretary may make funds authorized in this section available to the Department of Health and Human Services to fund the nutrition education component of the State program without requiring an additional grant application.

(4) The Secretary, in carrying out the provisions of this subsection, shall make grants to State educational agencies who, in turn, may contract with land-grant colleges eligible to receive funds under the Act of July 2, 1862,[19–13] or the Act of August 30, 1890,[19–14] including the Tuskegee Institute, other institutions of higher education, and nonprofit organizations and agencies, for the training of educational, school food service, child care, and summer food service personnel[19–15] with respect to providing nutrition education programs in schools and the training of school food service personnel in school food service management, in coordination with the activities authorized under section 21 of the Richard B. Russell National School Lunch Act.[19–16] Such grants may be used to develop and conduct training programs for early childhood, elementary, and secondary educational personnel and food service personnel with respect to the relationship between food, nutrition, and health; educational methods and techniques, and issues relating to nutrition education; and principles and skills of food service management for cafeteria personnel.

(5) The State, in carrying out the provisions of this subsection, may contract with State and local educational agencies, land-grant colleges eligible to receive funds under the Act of July 2, 1862,[19–17] or the Act of August 30, 1890,[19–18] including the Tuskegee Institute, other institutions of higher education, and other public or private nonprofit educational or research agencies, institutions, or organizations to pay the cost of pilot demonstration projects in elementary and secondary schools, and in child care institutions and summer food service institutions,[19–19] with respect to nutrition education. Such projects may include, but are not limited to, projects for the development, demonstration, testing, and evaluation of cur-

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Section 327(1)(A) of P.L. 101–147, 103 Stat. 918, Nov. 10, 1989, amended subsection (d)(2) by striking the semicolon each place it appears and inserting a comma.

[19–13] Section 327(1)(B)(i) of P.L. 101–147, 103 Stat. 918, Nov. 10, 1989, amended subsection (d)(4) by striking "(12 Stat. 503, as amended; 7 U.S.C. 301–305, 307, and 308)".

[19–14] Section 327(1)(B)(ii) of P.L. 101–147, 103 Stat. 918, Nov. 10, 1989, amended subsection (d)(4) by striking "(26 Stat. 417, as amended; 7 U.S.C. 321–326 and 328)".

[19–15] Section 205(c)(2) of P.L. 103–448, 108 Stat. 4746, Nov. 2, 1994, amended this paragraph by striking "educational and school food service personnel" and inserting "educational, school food service, child care, and summer food service personnel".

[19–16] Section 124(1)(C) of P.L. 101–147, 103 Stat. 905, Nov. 10, 1989, amended the first sentence of subsection (d)(4) by inserting before the period the following: ", in coordination with the activities authorized under section 21 of the National School Lunch Act".

[19–17] Section 327(1)(C)(i) of P.L. 101–147, 103 Stat. 918, Nov. 10, 1989, amended subsection (d)(5) by striking "(12 Stat. 503, as amended; 7 U.S.C. 301–305, 307, and 308)".

[19–18] Section 327(1)(C)(ii) of P.L. 101–147, 103 Stat. 918, Nov. 10, 1989, amended subsection (d)(5) by striking "(26 Stat. 417, as amended; 7 U.S.C. 321–326 and 328)".

[19–19] Section 205(c)(3) of P.L. 103–448, 108 Stat. 4746, Nov. 2, 1994, amended this paragraph by inserting after "schools" the following: ", and in child care institutions and summer food service institutions,".

ricula for use in early childhood, elementary, and secondary education programs. [19–20]

AGREEMENTS WITH STATE AGENCIES

(e) The Secretary is authorized to enter into agreements with State educational agencies incorporating the provisions of this section, and issue such regulations as are necessary to implement this section.

USE OF FUNDS

(f)(1) [19–21] The funds made available under this section may, under guidelines established by the Secretary, be used by State educational agencies for—

(A) employing a nutrition education specialist to coordinate the program, including travel and related personnel costs;

(B) undertaking an assessment of the nutrition education needs of the State;

(C) developing a State plan of operation and management for nutrition education;

(D) applying for and carrying out planning and assessment grants;

(E) pilot projects and related purposes;

(F) the planning, development, and conduct of nutrition education programs and workshops for food service and educational personnel;

(G) coordinating and promoting nutrition education and training [19–22] activities in local school districts (incorporating, to the maximum extent practicable, as a learning laboratory, the child nutrition programs);

(H) contracting with public and private nonprofit educational institutions for the conduct of nutrition education instruction and programs relating to the purposes of this section;

[19–20] Section 817(f) of P.L. 97–35, 95 Stat. 532, Aug. 13, 1981, repealed subsection (d)(6), relating to State prohibition on administration of the program in nonprofit private schools and institutions.

[19–21] Section 205(d) of P.L. 103–448, 108 Stat. 4746, Nov. 2, 1994, amended this paragraph—

(1) by striking "(f)(1) The funds" and inserting "(f)(1)(A) The funds";

(2) by striking "for (A) employing" and inserting "for—

"(i) employing";

(3) by redesignating former subparagraphs (B) through (I) as clauses (ii) through (ix), respectively;

(4) by indenting the margins of each of clauses (ii) through (ix) (as redesignated by paragraph (3)) so as to align with the margins of clause (i) (as amended by paragraph (2));

(5) by striking "and" at the end of clause (viii);

(6) by redesignating clause (ix) as clause (xx); and

(7) by inserting clauses (ix) through (xix).

Section 731(b) of P.L. 104–193, 110 Stat. 2306, Aug. 22, 1996, amended this paragraph—

(1) in paragraph (1)—

(A) by striking subparagraph (B); and

(B) in subparagraph (A)—

(i) by striking "(A)";

(ii) by striking clauses (ix) through (xix);

(iii) by redesignating clauses (i) through (viii) and (xx) as subparagraphs (A) through (H) and (I), respectively;

(iv) in subparagraph (I), as so redesignated, by striking the period at the end and inserting "; and"; and

(v) by adding at the end subparagraph (J);

(2) by striking paragraphs (2) and (4); and

(3) by redesignating paragraph (3) as paragraph (2).

[19–22] See note 19–4.

(I) related nutrition education purposes, including the preparation, testing, distribution, and evaluation of visual aids and other informational and educational materials; and

(J) other appropriate related activities, as determined by the State.[19–23]

(2)[19–24] A State agency may use an amount equal to not more than 15 percent of the funds made available through a grant under this section for expenditures for administrative purposes in connection with the program authorized under this section if the State makes available at least an equal amount for administrative or program purposes in connection with the program.

ACCOUNTS, RECORDS, AND REPORTS

(g)(1) State educational agencies participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued hereunder. Such accounts and records shall be available at any reasonable time[19–25] for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines to be necessary.

(2) State educational agencies shall provide reports on expenditures of Federal funds, program participation, program costs, and related matters, in such form and at such times as the Secretary may prescribe.

STATE COORDINATORS FOR NUTRITION; STATE PLAN

(h)[19–26](1) In order to be eligible for assistance under this section, a State shall appoint a nutrition education specialist to serve as a State coordinator for school nutrition education. It shall be the responsibility of the State coordinator to make an assessment of the nutrition education needs in the State,[19–27] prepare a State plan,[19–28] and coordinate programs under this Act with all other nutrition education programs provided by the State with Federal or State funds.

(2) Upon receipt of funds authorized by this section, the State coordinator shall prepare an itemized budget and assess the nutrition education and training[19–29] needs of the State.[19–30]

[19–23] Section 731(b)(1)(A) of P.L. 104–193, 110 Stat. 2306, Aug. 22, 1996, struck former subparagraph (B). Subparagraph (B) originally added by section 205(d)(8) of P.L. 103–448, 108 Stat. 4746, Nov. 2, 1994.

[19–24] Section 731(b)(2) and (3) of P.L. 104–193, 110 Stat. 2306, Aug. 22, 1996, struck former paragraphs (2) and (4) and redesignated former paragraph (3) as paragraph (2). Former paragraph (3) completely revised by section 205(e) of P.L. 103–448, 108 Stat. 4746, Nov. 2, 1994.

[19–25] Section 731(c) of P.L. 104–193, 110 Stat. 2306, Aug. 22, 1996, amended this sentence by striking "at all times be available" and inserting "be available at any reasonable time".

[19–26] Section 731(d)(3) of P.L. 104–193, 110 Stat. 2306, Aug. 22, 1996, struck former paragraph (3) of this subsection. Previously, former paragraph (3) was amended by sections 124(2), 214, and 327(2) of P.L. 101–147, 103 Stat. 905, Nov. 10, 1989, and section 205(f)(2) of P.L. 103–448, 108 Stat. 4746, Nov. 2, 1994.

[19–27] Section 731(d)(1)(A) of P.L. 104–193, 110 Stat. 2306, Aug. 22, 1996, amended this sentence by striking "as provided in paragraph (2) of this subsection".

[19–28] Section 731(d)(1)(B) of P.L. 104–193, 110 Stat. 2306, Aug. 22, 1996, amended this sentence by striking "as provided in paragraph (3) of this subsection".

[19–29] Section 205(f)(1) of P.L. 103–448, 108 Stat. 4746, Nov. 2, 1994, amended this paragraph by inserting "and training" after "education".

[19–30] Section 731(d)(2) of P.L. 104–193, 110 Stat. 2306, Aug. 22, 1996, struck the second and third sentences of this paragraph.

(i) [19–31] AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—

(A) FUNDING.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1997 through 2003.

(B) GRANTS.—

(i) IN GENERAL.—Grants to each State from the amounts made available under subparagraph (A) shall be based on a rate of 50 cents for each child enrolled in schools or institutions within the State, except that no State shall receive an amount less than $75,000 per fiscal year.

(ii) INSUFFICIENT FUNDS.—If the amount made available for any fiscal year is insufficient to pay the amount to which each State is entitled under clause (i), the amount of each grant shall be ratably reduced.

(2) [19–32] Funds made available to any State under this section shall remain available to the State for obligation in the fiscal year succeeding the fiscal year in which the funds were received by the State.

(3) [19–33] Enrollment data used for purposes of this subsection shall be the latest available as certified by the Department of Education. [19–34]

DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS

SEC. 20. [20–1] [42 U.S.C. 1789] (a) For the purpose of obtaining Federal payments and commodities in conjunction with the provision of breakfasts to students attending Department of Defense dependents' schools which are located outside the United States, its territories or possessions, the Secretary of Agriculture shall make available to the Department of Defense, from funds appropriated for such purpose, the same payments and commodities as are pro-

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[19–31] Section 204(1) of P.L. 105–336, 112 Stat. 3167, Oct. 31, 1998, amended the subsection heading and all that follows through paragraph (3)(A) in their entirety. Previously, this subsection was amended by—

(1) section 213 of P.L. 96–499, 94 Stat. 2603, Dec. 5, 1980;

(2) section 806 of P.L. 97–35, 95 Stat. 527, Aug. 13, 1981;

(3) sections 315, 362, and 373(b) of P.L. 99–500, 100 Stat. 1783-360, 1783–368, 1783–369, Oct. 18, 1986;

(4) sections 315, 362, and 373(b) of P.L. 99–591, 100 Stat. 3341–363 and 3341–371, 3341–372, Oct. 30, 1986;

(5) sections 4105, 4402, and 4503(b) of P.L. 99–661, 100 Stat. 4071, 4079, 4081, Nov. 14, 1986;

(6) section 124(3) of P.L. 101–147, 103 Stat. 906, Nov. 10, 1989;

(7) section 205(g) of P.L. 103–448, 108 Stat. 4746, Nov. 2, 1994; and

(8) section 731(e) of P.L. 104–193, 110 Stat. 2306, Aug. 22, 1996.

[19–32] See note 19–31. Previously, section 205(h) of P.L. 103–448, 108 Stat. 4746, Nov. 2, 1994, redesignated former paragraph (3) as paragraph (4) and inserted new paragraph (3). Section 204(1) of P.L. 105–336, 112 Stat. 3167, Oct. 31, 1998, redesignated former paragraphs (4) and (5) as paragraphs (2) and (3), respectively.

[19–33] See notes 19–31 and 19–32.

[19–34] Section 372(b)(2) of P.L. 99–500, 100 Stat. 1783–369, Oct. 18, 1986, substituted "Department of Education" for "Office of Education of the Department of Health, Education, and Welfare". Section 372(b)(2) of P.L. 99–591, 100 Stat. 3341–372, Oct. 30, 1986, and section 4502(b)(2) of P.L. 99–661, 100 Stat. 4080, Nov. 14, 1986, made the same substitution.

[20–1] Section 20 added by section 1408(b)(2) of P.L. 95–561, 92 Stat. 2368, Nov. 1, 1978.

Section 2243(b) of title 10, United States Code, provides authority to use appropriated funds to support student meal programs in Department of Defense overseas dependent schools, but provides that the authority may be used only if the Secretary of Defense determines that Federal payments and commodities provided under this section and section 20 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b) to support an overseas meal program are insufficient to meet a specified standard.

vided to States for schools participating in the school breakfast program in the United States.

(b) The Secretary of Defense shall administer breakfast programs authorized by this section and shall determine eligibility for free and reduced-price breakfasts under the criteria published by the Secretary of Agriculture, except that the Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of students participating in the school breakfast program under this section.

(c) The Secretary of Defense shall be required to offer meals meeting nutritional standards prescribed by the Secretary of Agriculture; however, the Secretary of Defense may authorize deviations from Department of Agriculture prescribed meal patterns and fluid milk requirements when local conditions preclude strict compliance or when such compliance is highly impracticable.

(d) Funds are hereby authorized to be appropriated for any fiscal year in such amounts as may be necessary for the administrative expenses of the Department of Defense under this section.[20–2]

(e) The Secretary of Agriculture shall provide the Secretary of Defense with technical assistance in the administration of the school breakfast programs authorized by this section.

SEC. 21.[21–1] **[42 U.S.C. 1790] BREAKFEEDING PROMOTION PROGRAM.**

(a) IN GENERAL.—The Secretary, from amounts received under subsection (d), shall establish a breastfeeding promotion program to promote breastfeeding as the best method of infant nutrition, foster wider public acceptance of breastfeeding in the United States, and assist in the distribution of breastfeeding equipment to breastfeeding women.

(b) CONDUCT OF PROGRAM.—In carrying out the program described in subsection (a), the Secretary may—

(1) develop or assist others to develop appropriate educational materials, including public service announcements, promotional publications, and press kits for the purpose of promoting breastfeeding;

(2) distribute or assist others to distribute such materials to appropriate public and private individuals and entities; and

(3) provide funds to public and private individuals and entities, including physicians, health professional organizations, hospitals, community based health organizations, and employers, for the purpose of assisting such entities in the distribution of breastpumps and similar equipment to breastfeeding women.

(c) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with Federal agencies, State and local governments, and other entities to carry out the program described in subsection (a).

(d) GIFTS, BEQUESTS, AND DEVISES.—

(1) IN GENERAL.—The Secretary is authorized to solicit, accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of establishing and carrying out the program described in subsection (a). Gifts, bequests, or devises of money and proceeds from the

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[20–2] Section 328(b) of P.L. 99–500, 100 Stat. 1783–362, Oct. 18, 1986, struck out end of sentence which authorized appropriations for the unfunded portion of costs for free and reduced-price breakfasts. Section 328(b) of P.L. 99–591, 100 Stat. 3341–365, Oct. 30, 1986, and section 4208(b) of P.L. 99–661, 100 Stat. 4073, Nov. 14, 1986, made the same deletion.

[21–1] This section added by section 201 of P.L. 102–342, 106 Stat. 911, Aug. 14, 1992.

sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Secretary.

(2) CRITERIA FOR ACCEPTANCE.—The Secretary shall establish criteria for determining whether to solicit and accept gifts, bequests, or devises under paragraph (1), including criteria that ensure that the acceptance of any gifts, bequests, or devises would not—

(A) reflect unfavorably on the ability of the Secretary to carry out the Secretary's responsibilities in a fair and objective manner; or

(B) compromise, or appear to compromise, the integrity of any governmental program or any officer or employee involved in the program.

SEC. 22.[22–1] **[1791] BILL EMERSON GOOD SAMARITAN FOOD DONATION ACT.**

(a) SHORT TITLE.—This section may be cited as the "Bill Emerson Good Samaritan[22–2] Food Donation Act".

(b) DEFINITIONS.—As used in this section:

(1) APPARENTLY FIT GROCERY PRODUCT.—The term "apparently fit grocery product" means a grocery product that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the product may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

(2) APPARENTLY WHOLESOME FOOD.—The term "apparently wholesome food" means food that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

(3) DONATE.—The term "donate" means to give without requiring anything of monetary value from the recipient, except that the term shall include giving by a nonprofit organization to another nonprofit organization, notwithstanding that the donor organization has charged a nominal fee to the donee organization, if the ultimate recipient or user is not required to give anything of monetary value.

(4) FOOD.—The term "food" means any raw, cooked, processed, or prepared edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption.

(5) GLEANER.—The term "gleaner" means a person who harvests for free distribution to the needy, or for donation to a nonprofit organization for ultimate distribution to the needy, an agricultural crop that has been donated by the owner.

(6) GROCERY PRODUCT.—The term "grocery product" means a nonfood grocery product, including a disposable paper or plas-

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22–1 This section was originally section 402 of the National and Community Service Act of 1990 (42 U.S.C. 12672). Section 1 of P.L. 104–210, 110 Stat. 3011, Oct. 1, 1996, amended this section, transferred this section to this Act, redesignated this section as section 22 of this Act, and added this section to the end of this Act. Section 1(a)(2)(A) of P.L. 104–210, 110 Stat. 3011, Oct. 1, 1996, amended the section heading, by striking "**MODEL**" and inserting "**BILL EMERSON**".

22–2 Section 1(a)(2)(B) of P.L. 104–210, 110 Stat. 3011, Oct. 1, 1996, amended this subsection by striking "Good Samaritan" and inserting "Bill Emerson Good Samaritan".

tic product, household cleaning product, laundry detergent, cleaning product, or miscellaneous household item.

(7)[22–3] GROSS NEGLIGENCE.—The term "gross negligence" means voluntary and conscious conduct (including a failure to act) by a person who, at the time of the conduct, knew that the conduct was likely to be harmful to the health or well-being of another person.

(8) INTENTIONAL MISCONDUCT.—The term "intentional misconduct" means conduct by a person with knowledge (at the time of the conduct) that the conduct is harmful to the health or well-being of another person.

(9) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means an incorporated or unincorporated entity that—

(A) is operating for religious, charitable, or educational purposes; and

(B) does not provide net earnings to, or operate in any other manner that inures to the benefit of, any officer, employee, or shareholder of the entity.

(10) PERSON.—The term "person" means an individual, corporation, partnership, organization, association, or governmental entity, including a retail grocer, wholesaler, hotel, motel, manufacturer, restaurant, caterer, farmer, and nonprofit food distributor or hospital. In the case of a corporation, partnership, organization, association, or governmental entity, the term includes an officer, director, partner, deacon, trustee, council member, or other elected or appointed individual responsible for the governance of the entity.

(c)[22–4] LIABILITY FOR DAMAGES FROM DONATED FOOD AND GROCERY PRODUCTS.—

(1) LIABILITY OF PERSON OR GLEANER.—A person or gleaner shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to needy individuals.

(2) LIABILITY OF NONPROFIT ORGANIZATION.—A nonprofit organization shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the nonprofit organization received as a donation in good faith from a person or gleaner for ultimate distribution to needy individuals.

(3) EXCEPTION.—Paragraphs (1) and (2) shall not apply to an injury to or death of an ultimate user or recipient of the food or grocery product that results from an act or omission of the person, gleaner, or nonprofit organization, as applicable, constituting gross negligence or intentional misconduct.

(d) COLLECTION OR GLEANING OF DONATIONS.—A person who allows the collection or gleaning of donations on property owned or occupied by the person by gleaners, or paid or unpaid representatives of a nonprofit organization, for ultimate distribution to needy individuals shall not be subject to civil or criminal liability that arises due to the injury or death of the gleaner or representative,

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[22–3] Section 1(a)(2)(C) of P.L. 104–210, 110 Stat. 3011, Oct. 1, 1996, amended this paragraph in its entirety.

[22–4] Section 1(a)(2)(D) of P.L. 104–210, 110 Stat. 3011, Oct. 1, 1996, amended this subsection in its entirety.

except that this paragraph shall not apply to an injury or death that results from an act or omission of the person constituting gross negligence or intentional misconduct.

(e) PARTIAL COMPLIANCE.—If some or all of the donated food and grocery products do not meet all quality and labeling standards imposed by Federal, State, and local laws and regulations, the person or gleaner who donates the food and grocery products shall not be subject to civil or criminal liability in accordance with this section if the nonprofit organization that receives the donated food or grocery products—

(1) is informed by the donor of the distressed or defective condition of the donated food or grocery products;

(2) agrees to recondition the donated food or grocery products to comply with all the quality and labeling standards prior to distribution; and

(3) is knowledgeable of the standards to properly recondition the donated food or grocery product.

(f) CONSTRUCTION.—This section shall not be construed to create any liability. Nothing in this section shall be construed to supercede State or local health regulations. [22–5]

[22–5] This sentence added by section 1(a)(2)(E) of P.L. 104–210, 110 Stat. 3011, Oct. 1, 1996.

GENERAL NOTES

Section 255(h) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(h)) exempts child nutrition from reductions under sequestration deficit reduction orders.

Section 17 of the Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note; Public Law 100–237) permits surplus commodities acquired by the Commodity Credit Corporation and commodities acquired under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to be used for any program authorized to be carried out by the Secretary that involves the acquisition of commodities for use in a domestic feeding program, including a program authorized by this Act.

Section 5(l)(2)(E) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) permits the use of approved food safety technology in acquiring commodities for distribution under this Act.

Section 403(c)(2)(D) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(c)(2)(D)) provides that the 5-year limited eligibility of qualified aliens for Federal means-tested public benefits does not apply to assistance or benefits under this Act.

Section 423(d)(4) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104–193; 8 U.S.C. 1138a note) provides that the requirements for reimbursement by a sponsor for benefits provided to a sponsored alien pursuant to an affidavit of support under section 213A of the Immigration and Nationality Act (8 U.S.C. 1138a) do not apply to assistance or benefits under this Act.

Section 3 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1752) provides that funds to carry out the Child Nutrition Act of 1966 may be appropriated a year in advance of the fiscal year in which the funds will be used and shall remain available until expended.

Section 9(b)(2)(C)(iii) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(2)(C)(iii)) limits the use or disclosure of any information obtained from an application for free or reduced price meals, or from certain State or local agencies, to (inter alia) a person directly connected with the administration or enforcement of this Act.

Section 9(f)(5) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(f)(5)) provides that, during the period ending on September 30, 2003, the Secretary shall not require the use of weighted averages for nutrient analysis of menu items and foods offered or served as part of a meal offered or served the school breakfast program under section 4 of this Act.

Section 9(h) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(h)) requires a school participating in the school breakfast program under section 4 of this Act to, at least once during each school year, obtain a food safety inspection conducted by a State or local governmental agency responsible for food safety inspections, with an exception.

Section 9(i)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(i)) requires a single State agency that administers any combination of the school lunch program, the school breakfast program, the summer food service program for children, or the child and adult care food program, to require each school food authority to submit to the State agency a single agreement with respect to the operation by the authority of the programs administered by the State agency, and use a common claims form with respect to meals and supplements served under the programs administered by the State agency.

Section 9(j) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(j)) requires the Secretary to encourage institutions participating in the school breakfast program established by section 4 of this Act to purchase, in addition to other food purchases, locally produced foods for school meal programs, to the maximum extent practicable and appropriate.

Section 11(a)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)(1)) require that special assistance be paid with respect to certain schools based on (inter alia) free breakfasts served under this Act and payments for the breakfasts.

Section 12(i) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(i)) provides that facilities, equipment, and personnel provided to a school food authority for a program authorized under this Act may be used by a local educational agency to support a nonprofit nutrition program for the elderly.

Section 12(l) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(l)) permits the Secretary to waive any requirement under the Richard B. Russell National School Lunch Act or this Act, or any regulation issued under either such Act, for a State or eligible service provider that requests a waiver if specified requirements are met, except as provided in section 12(l)(4) of such Act.

Section 12(n) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(n)) establishes a requirement that a school food authority purchase, to the maximum extent practicable, domestic commodities or products, with respect to the purchase of a domestic commodity or product for the school lunch program under that Act or the school breakfast program under section 4 of this Act and a similar requirement for a school food authority in Hawaii.

Section 12(o) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(o)) permits a State, State agency, school, or school food authority to enter into a contract with a person that has provided specification information to the State, State agency, school, or school food authority for use in developing contract specifications for acquiring a good or service for programs under the Richard B. Russell National School Lunch Act or this Act (other than section 17 of this Act).

Section 17(f)(3)(A)(ii)(I) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(f)(3)(A)(ii)(I)) defines a 'tier I family or group day care home' as, inter alia, a family or group day care home that is located in an area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price school meals under the Richard B. Russell National School Lunch Act or this Act.

Section 17(f)(3)(E)(ii)(I) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(f)(3)(E)(ii)(I)) requires a State agency administering the school lunch program under the Richard B. Russell National School Lunch Act or the school breakfast program under this Act to provide to approved family or group day care home sponsoring organizations a list of schools serving elementary school children in the State in which not less than ½ of the children enrolled are certified to receive free or reduced price meals.

Section 17(q)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(q)(1)) requires the Secretary to provide training and technical assistance in order to assist the State agencies in improving their program management and oversight under section 17 of that Act, in addition to the training and technical assistance that is provided to State agencies under other provisions of that Act and this Act.

Section 17(r)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(r)(1)) defines "at-risk school child", for purposes of the program for at-risk school children, as a school child who, inter alia, participates in a program authorized under section 17 of that Act operated at a site located in a geographical area served by a school in which at least 50 percent of the children enrolled are certified as eligible to receive free or reduced price school meals under that Act or this Act.

Section 17A(c)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766a(c)(1)) provides a special reimbursement rate for a supplement served under section 17A of that Act to an eligible child who is participating in a program authorized under section 17A of that Act operated at a site located in a geographical area served by a school in which at least 50 percent of the children enrolled are certified as eligible to receive free or reduced price school meals under that Act or this Act.

Section 18(e)(6) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769(e)(6)) authorizes the Secretary to waive certain requirements of this Act in making a grant to conduct a pilot project under section 18(e)(1) of the Richard B. Russell National School Lunch Act and does not permit a school food authority to participate in such a pilot project if it has a history of violations of this Act.

Section 21(a)(1)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b–1(a)(1)(B)) requires the Secretary to conduct training activities and technical assistance to improve the skills of individuals employed in school breakfast programs carried out under section 4.

Section 21(c)(1)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769b–1(c)(1)(B)) requires any food service management institute established under section 21(a)(2) of such Act to carry out activities to improve the general operation and quality of school breakfast programs assisted under section 4.

Section 25 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769f) requires the Secretary to perform certain duties relating to nonprocurement debarment in connection with child nutrition programs, including the special milk program established under section 3, the school breakfast program established under section 4, and the special supplemental nutrition program for women, infants, and children authorized under section 17.

Section 27 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769h) permits the Secretary to carry out activities to help accommodate the special dietary needs of individuals with disabilities who are participating in a covered program, including the school breakfast program and any other program established under this Act that the Secretary determines is appropriate.

Section 3(a)(2)(D) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237; 7 U.S.C. 612c note) provides that certain commodity specification provisions shall apply to the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

Section 3(b)(1)(A)(iii)(IV) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237; 7 U.S.C. 612c note) requires the Secretary of Agriculture to implement a system to provide recipient agencies with options with respect to package sizes and forms of commodities, taking into account the duty of the Secretary to make direct purchases of agricultural commodities and other foods under the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

Section 3(e)(1)(D)(iii)(IV) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237; 7 U.S.C. 612c note) requires the Secretary of Agriculture to provide by regulation for delivery schedules for the distribution of commodities and products that are consistent with the needs of eligible recipient agencies, taking into account the duty of the Secretary to make direct purchases of agricultural commodities and other foods under the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

The matter under the heading "CHILD NUTRITION PROGRAMS" under "FOOD AND NUTRITION SERVICE" of chapter I of title XI of Public Law 102–368 provides that the Secretary may waive the requirements of this Act as they pertain to schools and institutions only to the degree the Secretary determines necessary to ensure nutrition benefits for program participants in the areas directly affected by natural disasters such as Hurricanes Andrew and Iniki and Typhoon Omar.

Section 2(4) of the Healthy Meals for Healthy Americans Act of 1994 (Public Law 103–448; 42 U.S.C. 1751 note) provides a congressional finding that supplemental nutrition programs under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and this Act can help to offset threats posed to a child's capacity to learn and perform in school that result from inadequate nutrient intake.

Section 3(1) of the Healthy Meals for Healthy Americans Act of 1994 (Public Law 103–448) provides that it is the sense of Congress that funds should be made available for child nutrition programs to remove barriers to the participation of needy children in the school lunch program, school breakfast program, summer food service program for children, and the child and adult care food program under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and this Act.

Section 301 of the Healthy Meals for Healthy Americans Act of 1994 (Public Law 103–448; 42 U.S.C. 1751 note) requires the Secretary, not later than 18 months after the date of enactment of such Act, to develop and implement regulations to consolidate the school lunch program and the school breakfast program into a comprehensive meal program and prescribes certain requirements for establishing the program.

Section 741 of the Personal Responsibility and Work Opportunity Act of 1966 (Public Law 104–193; 42 U.S.C. 1751 note) requires the Secretary of Agriculture to develop proposed changes to the regulations under the school lunch program under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), the summer food service program under section 13 of that Act (42 U.S.C. 1761), and the school breakfast program under section 4 of this Act, for the purpose of simplifying and coordinating those programs into a comprehensive meal program, and to submit a report containing the proposed changes to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Economic and Educational Opportunities of the House of Representatives not later than November 1, 1997.

Section 742 of the Personal Responsibility and Work Opportunity Act of 1966 (Public Law 104–193; 8 U.S.C. 1615 note) provides that—

(1) an individual who is eligible to receive free public education benefits under State or local law shall not be ineligible to receive benefits provided under the school breakfast program under section 4 of this Act on the basis of citizenship, alienage, or immigration status; and

(2) nothing in the Act shall prohibit or require a State to provide to an individual who is not a citizen or a qualified alien benefits under programs established under this Act (other than the school breakfast program).

RICHARD B. RUSSELL NATIONAL SCHOOL LUNCH ACT

[As Amended Through P.L. 107–249, October 23, 2002]

TABLE OF CONTENTS

Bracketed material and footnotes did *not* appear in Acts.

[Chapter 281]

AN ACT

To provide assistance to the States in the establishment, maintenance, operation, and expansion of school lunch programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, [42 U.S.C. 1751 note] That this Act may be cited as the "Richard B. Russell National School Lunch Act". [1–1]

DECLARATION OF POLICY

SEC. 2. [42 U.S.C. 1751] It is hereby declared to be the policy of Congress, as a measure of national security, to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other food, by assisting the States, through grants-in-aid and other means, in providing an adequate supply of foods and other facilities for the establishment, maintenance, operation, and expansion of nonprofit school lunch programs.

APPROPRIATIONS AUTHORIZED

SEC. 3. [42 U.S.C. 1752] For each fiscal year there is hereby authorized to be appropriated, out of money in the Treasury not otherwise appropriated, such sums as may be necessary to enable the Secretary of Agriculture (hereinafter referred to as the "Secretary") to carry out the provisions of this Act, other than sections 13 and 17. [3–1] Appropriations to carry out the provisions of this Act and of the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)] for any fiscal year are authorized to be made a year in advance of the beginning of the fiscal year in which the funds will become available for disbursement to the States. Notwithstanding any

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[1–1] P.L. 79–396, 60 Stat. 230, June 4, 1946.

Section 312 of P.L. 101–147, 103 Stat. 916, Nov. 10, 1989, amended the Act—

(1) by striking "school-lunch" each place it appears and inserting "school lunch";

(2) by striking "reduced-price" each place it appears and inserting "reduced price"; and

(3) by striking "special-assistance" each place it appears and inserting "special assistance".

The amendments made by such section 312 have been executed to the compilation but have *not* been noted beyond this note.

Section 752(a) of P.L. 106–78, 113 Stat. 1169, Oct. 22, 1989, amended this section by striking "National School Lunch Act" and inserting "Richard B. Russell National School Lunch Act".

[3–1] Amended by section 1 of P.L. 87–823, 76 Stat. 944, Oct. 15, 1962, to delete "beginning with the fiscal year ending June 30, 1947," following "fiscal year" and to add the phrase "other than section 11." Section 1 of P.L. 90–302, 82 Stat. 117, May 8, 1968, substituted "11 and 13" for "11". Section 7 of P.L. 93–326, 88 Stat. 287, June 30, 1974, substituted "13" for "11 and 13." Section 24 of P.L. 94–105, 89 Stat. 529, Oct. 7, 1975, substituted "13, 17, and 19" for "13". Section 371(a)(2) of P.L. 99–500, 100 Stat. 1783–368, Oct. 18, 1986, substituted "sections 13 and 17" for "sections 13, 17, and 19". Section 371(a)(2) of P.L. 99–591, 100 Stat. 3341–371, Oct. 30, 1986, and section 4501(a)(2) of P.L. 99–661, 100 Stat. 4080, Nov. 14, 1986, made the same substitution.

Section 255(h) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(h)) exempts child nutrition from reductions under sequestration deficit reduction orders.

The second sentence of the first section of the Act entitled "An Act to amend the National School Lunch Act to strengthen and expand food service programs for children, and for other purposes", approved May 8, 1968 (42 U.S.C. 1752 note), amended section 3 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1752) and provided that appropriations shall be considered Health, Education, and Welfare functions for budget purposes rather than functions of Agriculture.

other provision of law, any funds appropriated to carry out the provisions of such Acts shall remain available for the purposes of the Act for which appropriated until expended.[3–2]

APPORTIONMENTS TO STATES[4–1]

SEC. 4.[4–2] [42 U.S.C. 1753] (a) The sums appropriated for any fiscal year pursuant to the authorizations contained in section 3 of this Act shall be available to the Secretary for supplying agricultural commodities and other food for the program in accordance with the provisions of this Act.

(b)[4–3](1) The Secretary shall make food assistance payments to each State educational agency each fiscal year, at such times as the Secretary may determine, from the sums appropriated for such purpose, in a total amount equal to the product obtained by multiplying—

(A) the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 9(a) of this Act) served during such fiscal year in schools in such State which participate in the school lunch program under this Act under agreements with such State educational agency; by

(B) the national average lunch payment prescribed in paragraph (2) of this subsection.

(2) The national average lunch payment for each lunch served shall be 10.5 cents (as adjusted pursuant to section 11(a) of this Act) except that for each lunch served in school food authorities in which 60 percent or more of the lunches served in the school lunch program during the second preceding school year were served free or at a reduced price, the national average lunch payment shall be 2 cents more.

[FOOD SERVICE EQUIPMENT ASSISTANCE]

[SEC. 5.[5–1] Repealed]

[3–2] The final two sentences added by section 1(a) of P.L. 91–248, 84 Stat. 208, May 14, 1970.

Section 17(g)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)(1)), as authorized by this section, permits the advance appropriations of funds to carry out the special supplemental food program for women, infants, and children (WIC) program, and provides that the funds shall remain available until expended.

[4–1] Section heading for section 4 added by section 301 of P.L. 101–147, 103 Stat. 913, Nov. 10, 1989.

[4–2] The original provisions for apportionment of funds among the States were amended by P.L. 82–518, 66 Stat. 591, July 12, 1952, to change apportionments to territories and possessions; by section 3 of P.L. 87–688, 76 Stat. 587, Sept. 25, 1962, to include American Samoa; and by section 2 of P.L. 87–823, 76 Stat. 944, Oct. 15, 1962, to change the apportionment factors, specify transitional formulas, and make several other changes. This section substantially amended by section 4(c) of P.L. 92–433, 86 Stat. 726, Sept. 26, 1972, effective July 1, 1973. Section 201(a) of P.L. 96–499, 94 Stat. 2599, Dec. 5, 1980, reduced for fiscal year 1981 the national average payment per lunch provided from general cash assistance funds, but section 820(b)(1) of P.L. 97–35, 95 Stat. 535, Aug. 31, 1981, effective September 1, 1981, repealed this change. Section 4 was again substantially amended by section 801(a) of P.L. 97–35, 95 Stat. 521, Aug. 13, 1981, effective September 1, 1981, which designated the first paragraph as subsection (a) and eliminated the reference to section 5 and language which authorized the Secretary to establish a national average payment factor for lunches "determined by the Secretary to be necessary to carry out the purposes of this Act".

[4–3] Section 801(a) of P.L. 97–35, 95 Stat. 521, Aug. 13, 1981, added subsection (b), which fixed the national average lunch payment at 10.5 cents (adjusted annually) and 2 cents per lunch more for schools which in the second preceding school year served 60 percent or more of the lunches in the program free or at a reduced price.

[5–1] Section 5, which authorized the food service equipment assistance program, repealed by section 805 of P.L. 97–35, 95 Stat. 527, Aug. 13, 1981.

DIRECT FEDERAL EXPENDITURES

SEC. 6.[6–1] **[**42 U.S.C. 1755**]** (a)[6–2] The funds provided by appropriation or transfer from other accounts for any fiscal year for carrying out the provisions of this Act, and for carrying out the provisions of the Child Nutrition Act of 1966 **[**(42 U.S.C. 1771 et seq.)**]**, other than section 3 thereof **[**(42 U.S.C. 1772)**]**, less

(1) not to exceed 3½ per centum thereof which per centum is hereby made available to the Secretary for the Secretary's[6–3] administrative expenses under this Act and under the Child Nutrition Act of 1966;

(2) the amount apportioned by the Secretary[6–4] pursuant to section 4 of this Act and the amount appropriated pursuant to sections 11 and 13[6–5] of this Act and sections 4 and 7 of the Child Nutrition Act of 1966 **[**(42 U.S.C. 1773 and 1776)**]**;[6–6] and

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[6–1] Section 404 of the Agricultural Act of 1949 (7 U.S.C. 1424) permits the Secretary of Agriculture, in carrying out programs under section 6 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755), to utilize the services and facilities of the Commodity Credit Corporation, and make advance payments to it.

The second sentence of section 13 of the Child Nutrition Act of 1966 (42 U.S.C. 1782) requires Federal agencies administering programs under which funds are provided to schools for food service programs for children to transfer such funds to the Department of Agriculture for distribution in accordance with standards established under such Act and the Richard B. Russell National School Lunch Act.

Section 3(a)(2)(C) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237; 7 U.S.C. 612c note) provides that certain commodity specification provisions shall apply to the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766).

Section 3(b)(1)(A)(iii)(III) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237; 7 U.S.C. 612c note) requires the Secretary of Agriculture to implement a system to provide recipient agencies with options with respect to package sizes and forms of commodities, taking into account the duty of the Secretary to make direct purchases of agricultural commodities and other foods under the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766).

Section 3(e)(1)(D)(iii)(III) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237; 7 U.S.C. 612c note) requires the Secretary of Agriculture to provide by regulation for delivery schedules for the distribution of commodities and products that are consistent with the needs of eligible recipient agencies, taking into account the duty of the Secretary to make direct purchases of agricultural commodities and other foods under the school lunch, commodity distribution, and child care food programs established under sections 6, 14, and 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755, 1762a, and 1766).

Section 241 of P.L. 106–224, 114 Stat. 410, June 20, 2000, requires the Secretary to use $34,000,000 in fiscal year 2000, and $21,000,000 in fiscal year 2001, to purchase commodities of the type provided under this section for distribution to schools participating in the school lunch program established under that Act (42 U.S.C. 1751 et seq.) and distribute the commodities as commodities are distributed under this section.

[6–2] Section 3 of P.L. 91–248, 84 Stat. 209, May 14, 1970, added the first sentence in place of provisions appearing earlier, adding, in particular, references to the Child Nutrition Act of 1966 and the provision concerning use of funds for nutritional training and education and for surveys and studies. This paragraph designated subsection (a) by section 2 of P.L. 93–13, 87 Stat. 10, March 30, 1973.

[6–3] Section 302(1) of P.L. 101–147, 103 Stat. 913, Nov. 10, 1989, amended paragraph (1) by striking "his" and inserting "the Secretary's".

[6–4] Section 302(2) of P.L. 101–147, 103 Stat. 913, Nov. 10, 1989, amended paragraph (2) by striking "him" and inserting "the Secretary".

[6–5] Section 3(b) of P.L. 87–823, 76 Stat. 945, Oct. 15, 1962, added reference to section 11; and section 2(a) of P.L. 90–302, 82 Stat. 117, May 8, 1968, added reference to section 13.

[6–6] Section 819 of P.L. 97–35, 95 Stat. 533, Aug. 13, 1981, removed references to sections 5 of the Richard B. Russell National School Lunch Act and the Child Nutrition Act of 1966.

Section 7(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)) requires the Secretary of Agriculture to make payments to States for administrative costs incurred in connection with programs authorized under such Act and the Richard B. Russell National School Lunch Act.

(3) not to exceed 1 per centum of the funds provided for carrying out the programs under this Act and the programs under the Child Nutrition Act of 1966, other than section 3, which per centum is hereby made available to the Secretary to supplement the nutritional benefits of these programs through grants to States and other means for nutritional training and education for workers, cooperators, and participants in these programs, for pilot projects and the cash-in-lieu of commodities study required to be carried out under section 18[6–7] of this Act, and for necessary surveys and studies of requirements for food service programs in furtherance of the purposes expressed in section 2 of this Act and section 2 of the Child Nutrition Act of 1966 **[**(42 U.S.C. 1771)**]**,

shall be available to the Secretary during such year for direct expenditure by the Secretary[6–8] for agricultural commodities and other foods to be distributed among the States and schools and service institutions participating in the food service programs under this Act and under the Child Nutrition Act of 1966 in accordance with the needs as determined by the local school and service institution authorities. Except as provided in the next 2 sentences, any school[6–9] participating in food service programs under this Act may refuse to accept delivery of not more than 20 percent of the total value of agricultural commodities and other foods tendered to it in any school year; and if a school so refuses, that school may receive, in lieu of the refused commodities, other commodities to the extent that other commodities are available to the State during that year.[6–10] Any school food authority may refuse some or all of the fresh fruits and vegetables offered to the school food authority in any school year and shall receive, in lieu of the offered fruits and vegetables, other more desirable fresh fruits and vegetables that are at least equal in value to the fresh fruits and vegetables refused by the school food authority. The value of any fresh fruits and vegetables refused by a school under the preceding sentence for a school year shall not be used to determine the 20 percent of the total value of agricultural commodities and other foods tendered to the school food authority in the school year under the second sentence.[6–11] The provisions of law contained in the proviso of the Act of June 28, 1937[6–12] **[**; 15 U.S.C. 713c**]**, facilitating operations with respect to the purchase and disposition of surplus agricultural commodities under section 32 of the Act approved August 24, 1935,[6–13] **[**; 7 U.S.C. 612c**]** shall, to the extent not inconsistent with the provisions of this Act, also be applicable to expenditures of funds by the

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[6–7] Section 10 of P.L. 95–166, 91 Stat. 1336, Nov. 10, 1977, authorized funds for pilot projects and studies under then-section 20 of this Act. Section 371(c)(2) of P.L. 99–500, 100 Stat. 1783–369, Oct. 18, 1986, substituted "section 18" for "section 20". Section 371(c)(2) of P.L. 99–591, 100 Stat. 3341–372, Oct. 30, 1986, and section 4501(c)(2) of P.L. 99–661, 100 Stat. 4080, Nov. 14, 1986, made the same substitution.

[6–8] Section 302(3)(A) of P.L. 101–147, 103 Stat. 913, Nov. 10, 1989, amended the matter following paragraph (3) by striking "him" and inserting "the Secretary".

[6–9] Section 101(1) of P.L. 103–448, 108 Stat. 4701, Nov. 2, 1994, amended the second sentence by striking "Any school" and inserting "Except as provided in the next 2 sentences, any school".

[6–10] Section 7 of P.L. 95–166, 91 Stat. 1335, Nov. 10, 1977, added the choice of commodities option for not more than 20 percent of commodities tendered to a school.

[6–11] This sentence and the preceding sentence added by section 101(2) of P.L. 103–448, 108 Stat. 4701, Nov. 2, 1994.

[6–12] Section 302(3)(B) of P.L. 101–147, 103 Stat. 913, Nov. 10, 1989, amended the matter following paragraph (3) by striking "(50 Stat. 323)".

[6–13] Section 302(3)(C) of P.L. 101–147, 103 Stat. 913, Nov. 10, 1989, amended the matter following paragraph (3) by striking "(49 Stat. 774), as amended".

Secretary under this Act. In making purchases of such agricultural commodities and other foods, the Secretary shall not issue specifications which restrict participation of local producers unless such specifications will result in significant advantages to the food service programs authorized by this Act and the Child Nutrition Act of 1966.[6–14]

(b)[6–15] The Secretary shall deliver, to each State participating in the school lunch program under this Act, commodities valued at the total level of assistance authorized under subsection (c) for each school year for the school lunch program in the State, not later than September 30 of the following school year.

(c)[6–16](1)[6–17](A) The national average value of donated foods, or cash payments in lieu thereof, shall be 11 cents, adjusted on July 1, 1982, and each July 1 thereafter to reflect changes in the Price Index for Food Used in Schools and Institutions. The Index shall be computed using 5 major food components in the Bureau of Labor Statistics' Producer Price Index (cereal and bakery products, meats, poultry and fish, dairy products, processed fruits and vegetables, and fats and oils). Each component shall be weighed using the same relative weight as determined by the Bureau of Labor Statistics.

(B) The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year. Such adjustment shall be computed to the nearest ¼ cent.

(C) For each school year, the total commodity assistance or cash in lieu thereof available to a State for the school lunch program shall be calculated by multiplying the number of lunches served in the preceding school year by the rate established by sub-

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[6–14] This sentence added by section 11(a) of P.L. 94–105, 89 Stat. 515, Oct. 7, 1975.

[6–15] Subsection (b) completely revised by section 102 of P.L. 103–448, 108 Stat. 4701, Nov. 2, 1994. This subsection was previously amended by section 2 of P.L. 93–13, 87 Stat. 10, Mar. 30, 1973; section 5 of P.L. 93–150, 87 Stat. 562, Nov. 7, 1973; section 5 of P.L. 95–166, 91 Stat. 1334, Nov. 10, 1977; section 4 of P.L. 94–105, 89 Stat. 511, Oct. 7, 1975; section 321 of P.L. 99–500, 100 Stat. 1783–360, Oct. 18, 1986; section 321 of P.L. 99–591, 100 Stat. 3341–364, Oct. 30, 1986; and section 4201 of P.L. 99–661, 100 Stat. 4071, Nov. 14, 1986.

[6–16] This subsection added by section 3 of P.L. 93–326, 88 Stat. 286, June 30, 1974, and redesignated by section 101(a)(2) of P.L. 105–336, 112 Stat. 3144, Oct. 31, 1998. Former subsections (c) and (d) were added by section 2 of P.L. 93–13, 87 Stat. 10, Mar. 30, 1973, and section 5 of P.L. 93–150, 87 Stat. 562, Nov. 7, 1973, and struck by section 101(a)(1) of P.L. 105–336, 112 Stat. 3144, Oct. 31, 1998.

[6–17] Paragraph (1) completely revised by section 131(a)(1) of P.L. 101–147, 103 Stat. 906, Nov. 10, 1989.

In former text, section 3(j)(1) of P.L. 100–237, 101 Stat. 1738, Jan. 8, 1988, inserted "(1)" after subsection designation.

In former text, section 19(a) of P.L. 95–166, 91 Stat. 1345, Nov. 10, 1977, substituted "school years" for "fiscal years" and "school year after June 30, 1975" for "fiscal year after June 30, 1975" in former text of first sentence. Section 202(a) of P.L. 96–499, 94 Stat. 2600, Dec. 5, 1980, reduced for fiscal year 1981 the national average value of donated foods or cash payments by 2 cents. Section 802 of P.L. 97–35, 95 Stat. 524, Aug. 13, 1981, rewrote the first sentence fixing the national average value of donated foods or cash payments at 11 cents, adjusted July 1, 1982, and annually thereafter.

In former text, section 5(b) of P.L. 95–627, 92 Stat. 3619, Nov. 10, 1978, effective July 1, 1979, deleted from the first sentence "the series for food away from home of the Consumer Price Index published by the Bureau of labor Statistics of the Department of Labor" and inserted in lieu thereof "the Price Index for Food Used in Schools and Institutions. The Index shall be computed using five major food components. . ." and all of the material through the end of the fourth sentence.

In former text, material in parentheses added by section 12(a) of P.L. 95–627, 92 Stat. 3625, Nov. 10, 1978.

In former text, section 12(a) of the Child Nutrition Amendments of 1978 (92 Stat. 3625) erroneously placed the parenthetical in the "second" sentence after "alternatives".

In former text, the last sentence added by section 11(b) of P.L. 94–105, 89 Stat. 515, Oct. 7, 1975.

paragraph (B). After the end of each school year, the Secretary shall reconcile the number of lunches served by schools in each State with the number of lunches served by schools in each State during the preceding school year and increase or reduce subsequent commodity assistance or cash in lieu thereof provided to each State based on such reconciliation.

(D) Among those commodities delivered under this section, the Secretary shall give special emphasis to high protein foods, meat, and meat alternates (which may include domestic seafood commodities and their products).

(E) Notwithstanding any other provision of this section, not less than 75 percent of the assistance provided under this subsection shall be in the form of donated foods for the school lunch program.

(2)[6–18] To the maximum extent feasible,[6–19] each State agency shall offer to each school food authority under its jurisdiction that participates in the school lunch program and receives commodities, agricultural commodities and their products, the per meal value of which is not less than the national average value of donated foods established under paragraph (1). Each such offer shall include the full range of such commodities and products that are available from the Secretary to the extent that quantities requested are sufficient to allow efficient delivery to and within the State.

(d)[6–20] Beginning with the school year ending June 30, 1981, the Secretary shall not offer commodity assistance based upon the number of breakfasts served to children under section 4 of the Child Nutrition Act of 1966 **[**(42 U.S.C. 1773)**]**.

(e)[6–21](1) Subject to paragraph (2), in each school year the Secretary shall ensure that not less than 12 percent of the assistance provided under section 4, this section, and section 11 shall be in the form of—

(A) commodity assistance provided under this section, including cash in lieu of commodities and administrative costs for procurement of commodities under this section; or

(B) during the period beginning October 1, 2003,[6–22] and ending September 30, 2009, commodities provided by the Secretary under any provision of law.

(2) If amounts available to carry out the requirements of the sections described in paragraph (1) are insufficient to meet the requirement contained in paragraph (1) for a school year, the Secretary shall, to the extent necessary, use the authority provided under section 14(a) to meet the requirement for the school year.

[6–18] This paragraph added by section 3(j)(2) of P.L. 100–237, 101 Stat. 1738, Jan. 8, 1988.

[6–19] Phrase "To the maximum extent feasible," inserted by section 131(a)(2) of P.L. 101–147, 103 Stat. 907, Nov. 10, 1989.

[6–20] This subsection added by section 202(b) of P.L. 96–499, 94 Stat. 2600, Dec. 5, 1980.

[6–21] This subsection added by section 103 of P.L. 103–448, 108 Stat. 4701, Nov. 2, 1994. Section 411 of P.L. 106–170, 113 Stat. 1917, Dec. 17, 1999, converted the text of subparagraph (A) into subparagraph (A) and added subparagraph (B).

[6–22] Section 241(b) of P.L. 106–224, 114 Stat. 410, June 20, 2000, amended this subparagraph by striking "2000" and inserting "2001". Sec. 4301(a) of P.L. 107–171, 116 Stat. 330, May 13, 2002, amended this subparagraph by striking "2001" and inserting "2003".

PAYMENTS TO STATES [7–1]

SEC. 7. [7–2] [42 U.S.C. 1756] (a)(1) Funds appropriated to carry out section 4 of this Act during any fiscal year shall be available for payment to the States for disbursement by State educational agencies in accordance with such agreements, not inconsistent with the provisions of this Act, as may be entered into by the Secretary and such State educational agencies for the purpose of assisting schools within the States in obtaining agricultural commodities and other foods for consumption by children in furtherance of the school lunch program authorized under this Act. For any school year, such payments shall be made to a State only if, during such school year, the amount of the State revenues (excluding State revenues derived from the operation of the program) appropriated or used specifically for program purposes (other than any State revenues expended for salaries and administrative expenses of the program at the State level) is not less than 30 percent of the funds made available to such State under section 4 of this Act for the school year beginning July 1, 1980. [7–3]

(2) If, for any school year, the per capita income of a State is less than the average per capita income of all the States, the amount required to be expended by a State under paragraph (1) for such year shall be an amount bearing the same ratio to the amount equal to 30 percent of the funds made available to such State under section 4 of this Act for the [7–4] school year beginning July 1, 1980, as the per capita income of such State bears to the average per capita income of all the States.

(b) The State revenues provided by any State to meet the requirement of subsection (a) shall, to the extent the State deems practicable, be disbursed to schools participating in the school lunch program under this Act. No State in which the State educational agency is prohibited by law from disbursing State appropriated funds to private schools shall be required to match Federal funds made available for meals served in such schools, or to disburse, to such schools, any of the State revenues required to meet the requirements of subsection (a).

(c) The Secretary shall certify to the Secretary of the Treasury, from time to time, the amounts to be paid to any State under this section and shall specify when such payments are to be made. The Secretary of the Treasury shall pay to the State, at the time or times fixed by the Secretary, the amounts so certified.

(d) [7–5] Notwithstanding any other provision of law, the Secretary may enter into an agreement with a State agency, acting on the request of a school food service authority, under which funds payable to the State under section 4 or 11 may be used by the Secretary for the purpose of purchasing commodities for use by the

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[7–1] Section heading inserted by section 303(a) of P.L. 101–147, 103 Stat. 913, Nov. 10, 1989.

[7–2] This section completely revised by section 804 of P.L. 97–35, 95 Stat. 526, Aug. 13, 1981. Earlier amendments to this section were made by section 4 of P.L. 91–248, 84 Stat. 209, May 14, 1970; section 10 of P.L. 92–433, 86 Stat. 731, Sept. 26, 1972; section 5 of P.L. 94–105, 89 Stat. 511, Oct. 7, 1975; and section 19(b) of P.L. 95–166, 91 Stat. 1345, Nov. 10, 1977.

[7–3] Section 7(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(f)) restricts payments for State administrative expenses to States that agree to maintain a certain level of State funding for such expenses.

[7–4] Section 303(b) of P.L. 101–147, 103 Stat. 913, Nov. 10, 1989, amended this paragraph by striking "the the" and inserting "the".

[7–5] This subsection added by section 104 of P.L. 103–448, 108 Stat. 4701, Nov. 2, 1994.

school food service authority in meals served under the school lunch program under this Act.

STATE DISBURSEMENT TO SCHOOLS

SEC. 8.[8–1] [42 U.S.C. 1757] (a) Funds paid to any State during any fiscal year pursuant to section 4[8–2] shall be disbursed by the State educational agency, in accordance with such agreements approved by the Secretary as may be entered into by such State agency and the schools in the State, to those schools in the State which the State educational agency, taking into account need and attendance, determines are eligible to participate in the school lunch program.

(b)[8–3] The agreements described in subsection (a)[8–4] shall be permanent agreements that may be amended as necessary.

(c)[8–5] The State educational agency may[8–6] suspend or terminate any such agreement in accordance with regulations prescribed by the Secretary.

(d)[8–7] Use of funds paid to States[8–8] may include, in addition to the purchase price of agricultural commodities and other foods, the cost of processing, distributing, transporting, storing, or handling thereof.

(e)[8–9] In no event shall such disbursement for food to any school for any fiscal year exceed an amount determined by multiplying the number of lunches served in the school in the school lunch program under this Act during such year by the maximum per meal reimbursement rate[8–10] for the State, for the type of lunch served, as prescribed by the Secretary.

(f)[8–11] In any fiscal year in which the national average payment per lunch determined under section 4 is increased above the amount prescribed in the previous fiscal year, the maximum per meal reimbursement rate for the type of lunch served, shall be increased by a like amount.

[8–1] Section 701(a)(2) and (3) of P.L. 104–193, 110 Stat. 2287, Aug. 22, 1996, amended this section by striking the former fourth and fifth sentences and by redesignating the former first through seventh sentences as subsections (a) through (g), respectively. The former fourth sentence was amended by section 8 of P.L. 92–433, 86 Stat. 729, Sept. 26, 1972, and section 819 of P.L. 97–35, 95 Stat. 533, Aug. 13, 1981. The former fifth sentence was added by section 10(d)(1) of P.L. 95–627, 92 Stat. 3624, Nov. 10, 1978, and amended by section 304 of P.L. 101–147, 103 Stat. 914, Nov. 10, 1989.

[8–2] Section 819 of P.L. 97–35, 95 Stat. 533, Aug. 13, 1981, eliminated a reference to section 5.

[8–3] See note 8–1. This sentence originally added by section 201 of P.L. 101–147, 103 Stat. 908, Nov. 10, 1989.

[8–4] Section 701(a)(4) of P.L. 104–193, 110 Stat. 2288, Aug. 22, 1996, amended this subsection by striking "the preceding sentence" and inserting "subsection (a)".

[8–5] See note 8–1. This sentence originally added by section 201 of P.L. 101–147, 103 Stat. 908, Nov. 10, 1989.

[8–6] Section 701(a)(1) of P.L. 104–193, 110 Stat. 2287, Aug. 22, 1996, amended this sentence by striking "Nothing" and all that follows through "educational agency to" and inserting "The State educational agency may".

[8–7] See note 8–1.

[8–8] Section 701(a)(5) of P.L. 104–193, 110 Stat. 2288, Aug. 22, 1996, amended this subsection by striking "Such food costs" and inserting "Use of funds paid to States".

[8–9] See note 8–1.

[8–10] Section 819 of P.L. 97–35, 95 Stat. 533, Aug. 13, 1981, substituted the phrase "per meal reimbursement rate" for "Federal food cost contribution rate".

[8–11] See note 8–1. This sentence originally added by section 2(b) of P.L. 93–150, 87 Stat. 560, Nov. 7, 1973. Section 819 of P.L. 97–35, 95 Stat. 533, Aug. 13, 1981, amended this sentence by substituting the phrase "per meal reimbursement rate" for "Federal food-cost contribution rate".

(g)[8–12] Lunch assistance disbursements to schools under this section and under section 11 of this Act may be made in advance or by way of reimbursement in accordance with procedures prescribed by the Secretary.

NUTRITIONAL AND OTHER PROGRAM REQUIREMENTS

SEC. 9.[9–1] [42 U.S.C. 1758] (a)[9–2] (1)(A)[9–3] Lunches served by schools participating in the school lunch program under this Act shall meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research, except that the minimum nutritional requirements—

(i)[9–4] shall not be construed to prohibit the substitution of foods to accommodate the medical or other special dietary needs of individual students; and

(ii)[9–5] shall, at a minimum, be based on the weekly average of the nutrient content of school lunches.

(B)[9–6] The Secretary shall provide technical assistance and training, including technical assistance and training in the preparation of lower-fat versions of foods commonly used in the school lunch program under this Act, to schools participating in the school lunch program to assist the schools in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A) and in providing appropriate meals to children with medically certified special dietary needs. The Secretary shall provide additional technical assistance to schools that are having difficulty maintaining compliance with the requirements.

[8–12] See note 8–1. This sentence originally added by section 8 of P.L. 92–433, 86 Stat. 729, Sept. 26, 1972.

[9–1] This section was substantially amended by sections 6 (a) and (b) of P.L. 91–248, 84 Stat. 210, May 14, 1970. Among changes made were those which provided for determination of eligibility for free and reduced price lunches on the basis of publicly announced criteria and for establishment by the Secretary of income poverty guidelines with free or reduced price lunches for children from families with an annual income below such guidelines.

The second sentence of section 4(e)(1)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(e)(1)(A)) requires that breakfasts be served under the school breakfast program under the same terms and conditions as lunches served under section 9 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758).

[9–2] Section 5 of P.L. 92–433, 86 Stat. 726, Sept. 26, 1972, designated this paragraph as subsection (a).

Section 322 of P.L. 99–500, 100 Stat. 1783–361, Oct. 18, 1986, numbered the first three sentences of subsection (a) as paragraphs (1), (3), and (4) and added paragraph (2).

Section 322 of P.L. 99–591, 100 Stat. 3341–364, Oct. 30, 1986, and section 4202 of P.L. 99–661, 100 Stat. 4072, Nov. 14, 1986, made identical changes.

Section 101(a) of P.L. 101–147, 103 Stat. 878, Nov. 10, 1989, eliminated the duplicate provisions by providing that section 9(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(a)), as similarly amended first by section 322 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99–500 (100 Stat. 1783–361), later by section 322 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99–591 (100 Stat. 3341–364), and later by section 4202 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661), is amended to read as if only the latest amendment was enacted.

[9–3] Section 105(a)(1) of P.L. 103–448, 108 Stat. 4701, Nov. 2, 1994, inserted "(A)" after "(1)".

[9–4] This exception originally added by section 2(b) of P.L. 90–302, 82 Stat. 117, May 8, 1968. Section 106(a) of P.L. 103–448, 108 Stat. 4702, Nov. 2, 1994, amended this subparagraph (1) by striking "; except" and all that follows through "shall not" and inserting ", except" and all that follows through "(i) shall not"; (2) by striking the period at the end and inserting "; and"; and (3) by adding clause (ii).

[9–5] See note 9–4.

[9–6] This subparagraph added by section 105(a)(2) of P.L. 103–448, 108 Stat. 4701, Nov. 2, 1994.

(2)[9–7] Lunches served by schools participating in the school lunch program under this Act—

(A) shall offer students fluid milk; and

(B) shall offer students a variety of fluid milk consistent with prior year preferences unless the prior year preference for any such variety of fluid milk is less than 1 percent of the total milk consumed at the school.

(3)[9–8] Students in senior high schools that participate in the school lunch program under this Act (and, when approved by the local school district or nonprofit private schools, students in any other grade level)[9–9] shall not be required to accept offered foods they do not intend to consume, and any such failure to accept offered foods shall not affect the full charge to the student for a lunch meeting the requirements of this subsection or the amount of payments made under this Act to any such school for such lunch.

(b)[9–10](1)(A) Not later than June 1 of each fiscal year, the Secretary shall prescribe income guidelines for determining eligibility for free and reduced price lunches during the 12-month period beginning July 1 of such fiscal year and ending June 30 of the following fiscal year.[9–11] The[9–12] income guidelines for determining eligibility for free lunches shall be 130 percent of the applicable family size[9–13] income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget, as adjusted annually in accordance with subparagraph (B). The income guidelines for determining eligibility for reduced price lunches for any school year shall be 185 percent of the applicable family size[9–14] income levels contained in the nonfarm income poverty guidelines prescribed by the Office of Management and Budget, as

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[9–7] Section 702(a)(1) of P.L. 104–193, 110 Stat. 2288, Aug. 22, 1996, amended this paragraph by striking "(2)(A) Lunches" and inserting "(2) Lunches", by striking former subparagraph (B), and by redesignating former clauses (i) and (ii) as subparagraphs (A) and (B), respectively. Previously, this paragraph was amended by section 101(b) of P.L. 101–147, 103 Stat. 878, Nov. 10, 1989, and section 107 of P.L. 103–448, 108 Stat. 4703, Nov. 2, 1994.

[9–8] Section 702(a)(2) and (3) of P.L. 104–193, 110 Stat. 2288, Aug. 22, 1996, struck former paragraph (3) and redesignated former paragraph (4) as paragraph (3). Previously, section 6(a) of P.L. 94–105, 89 Stat. 512, Oct. 7, 1975, added two sentences that became former paragraphs (3) and (4).

[9–9] Section 811 of P.L. 97–35, 95 Stat. 529, Aug. 13, 1981, eliminated the words "in any junior high school or middle school".

[9–10] Section 5 of P.L. 92–433, 86 Stat. 726, Sept. 26, 1972, designated this paragraph as subsection (b), substituted new wording requiring that children from households whose income is not above the applicable family size income level in the Secretary's income proverty guidelines be served a free lunch, and directed State educational agencies to prescribe income guidelines by family size for use by schools in the State to determine eligibility for free and reduced price lunches. Subsection (b) was completely revised by section 803 of P.L. 97–35, 95 Stat. 524, Aug. 13, 1981.

Section 17(d)(2)(A)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(A)(i)) provides that any individual at nutritional risk shall be eligible for the special supplemental food program for women, infants, and children (WIC) program under section 17 of such Act only if such individual, inter alia, is a member of a family with an income that is less than the maximum income limit prescribed under section 9(b) of this Act for free and reduced price meals.

[9–11] Section 17(d)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(A)) provides that an individual shall be eligible for the special supplemental food program only if the individual, inter alia, is a member of a family that satisfies the income standards prescribed for free and reduced price school meals.

[9–12] Section 1 of P.L. 100–356, 102 Stat. 669, June 28, 1988, originally substituted "The" for "For the school years ending June 30, 1982, and June 30, 1983, the" and struck the third sentence.

Section 202(a) of P.L. 101–147, 103 Stat. 908, Nov. 10, 1989, eliminated the amendments made by P.L. 100–356 and made identical amendments.

[9–13] Section 305(b)(1) of P.L. 101–147, 103 Stat. 914, Nov. 10, 1989, amended section 9 by striking "family-size" each place it appears and inserting "family size".

[9–14] See note 9–13.

adjusted annually in accordance with subparagraph (B). The Office of Management and Budget guidelines shall be revised at annual intervals, or at any shorter interval deemed feasible and desirable.

(B) The revision required by subparagraph (A) of this paragraph shall be made by multiplying—

(i) the official poverty line (as defined by the Office of Management and Budget); by

(ii) the percentage change in the Consumer Price Index during the annual or other interval immediately preceding the time at which the adjustment is made.

Revisions under this subparagraph shall be made not more than 30 days after the date on which the consumer price index data required to compute the adjustment becomes available.

(2)(A) Following the determination by the Secretary under paragraph (1) of this subsection of the income eligibility guidelines for each school year, each State educational agency shall announce the income eligibility guidelines, by family size[9–15], to be used by schools in the State in making determinations of eligibility for free and reduced price lunches. Local school authorities shall, each year, publicly announce the income eligibility guidelines for free and reduced price lunches on or before the opening of school.

(B) Applications for free and reduced price lunches, in such form as the Secretary may prescribe or approve, and any descriptive material, shall be distributed to the parents or guardians of children in attendance at the school, and shall contain only the family size[9–16] income levels for reduced price meal eligibility with the explanation that households with incomes less than or equal to these values would be eligible for free or reduced price lunches. Such forms and descriptive material may not contain the income eligibility guidelines for free lunches.

(C)[9–17](i) Except as provided in clause (ii), each eligibility determination shall be made on the basis of a complete application executed by an adult member of the household. The Secretary, State, or local food authority may verify any data contained in such application. A local school food authority shall undertake such verification of information contained in any such application as the Secretary may by regulation prescribe and, in accordance with such regulations, shall make appropriate changes in the eligibility determination with respect to such application on the basis of such verification.

(ii) Subject to clause (iii), any school food authority may certify any child as eligible for free or reduced price lunches or breakfasts, without further application, by directly communicating with the appropriate State or local agency to obtain documentation of such child's status as a member of—

(I) a household that is receiving food stamps under the Food Stamp Act of 1977; or

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[9–15] See note 9–13.

[9–16] See note 9–13.

[9–17] Subparagraph (C) was completely revised by section 202(b)(1) of P.L. 101–147, 103 Stat. 908, Nov. 10, 1989

Section 803(c) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 525) requires the Secretary of Agriculture to conduct a pilot study to verify the data submitted on a sample of applications for free and reduced price meals.

(II) a family that is receiving assistance under the State program funded[9–18] under part A of title IV of the Social Security Act that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995.[9–19]

(iii)[9–20] The use or disclosure of any information obtained from an application for free or reduced price meals, or from a State or local agency referred to in clause (ii), shall be limited to—

(I) a person directly connected with the administration or enforcement of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or a regulation issued pursuant to either Act;

(II) a person directly connected with the administration or enforcement of—

(aa) a Federal education program;

(bb) a State health or education program administered by the State or local educational agency (other than a program carried out under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.)); or

(cc) a Federal, State, or local means-tested nutrition program with eligibility standards comparable to the program under this section; ~~and~~

(III)(aa) the Comptroller General of the United States for audit and examination authorized by any other provision of law; and

(bb) notwithstanding any other provision of law, a Federal, State, or local law enforcement official for the purpose of investigating an alleged violation of any program covered by paragraph (1) or this paragraph; and

(IV)[9–21] a person directly connected with the administration of the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or the State children's health insurance program under title XXI of that Act (42 U.S.C. 1397aa et seq.) solely for the purpose of identifying children eligible for benefits under, and enrolling children in, such programs, except that this subclause shall apply only to the extent that the State and the school food authority so elect.

(iv)[9–22] Information provided under clause (iii)(II) shall be limited to the income eligibility status of the child for whom application for free or reduced price meal benefits was made or for whom eligibility information was provided under clause (ii), unless the

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[9–18] Effective July 1, 1997, section 109(g)(1)(A)(i) of P.L. 104–193, 110 Stat. 2170, Aug. 22, 1996, amended this subclause by striking "program for aid to families with dependent children" and inserting "State program funded".

[9–19] Effective July 1, 1997, section 109(g)(1)(A)(ii) of P.L. 104–193, 110 Stat. 2170, Aug. 22, 1996, amended this subclause by inserting before the period at the end the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

[9–20] Section 108 of P.L. 103–448, 108 Stat. 4704, Nov. 2, 1994, struck former clause (iii) and inserted new clauses (iii) through (v).

[9–21] Effective October 1, 2000, section 242(a) of P.L. 106–224, 114 Stat. 411, June 20, 2000, amended this clause by adding subclause (IV) and by making conforming amendments to subclauses (II) and (III).

[9–22] See note 9–20.

consent of the parent or guardian of the child for whom application for benefits was made is obtained.

(v)[9–23] A person described in clause (iii) who publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by Federal law (including a regulation), any information obtained under this subsection shall be fined not more than $1,000 or imprisoned not more than 1 year, or both.

(vi)[9–24] REQUIREMENTS FOR WAIVER OF CONFIDENTIALITY.—A State that elects to exercise the option described in clause (iii)(IV) shall ensure that any school food authority acting in accordance with that option—

(I) has a written agreement with the State or local agency or agencies administering health insurance programs for children under titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq. and 1397aa et seq.) that requires the health agencies to use the information obtained under clause (iii) to seek to enroll children in those health insurance programs; and

(II)(aa) notifies each household, the information of which shall be disclosed under clause (iii), that the information disclosed will be used only to enroll children in health programs referred to in clause (iii)(IV); and

(bb) provides each parent or guardian of a child in the household with an opportunity to elect not to have the information disclosed.

(vii)[9–25] USE OF DISCLOSED INFORMATION.—A person to which information is disclosed under clause (iii)(IV) shall use or disclose the information only as necessary for the purpose of enrolling children in health programs referred to in clause (iii)(IV).

(D)[9–26] FREE AND REDUCED PRICE POLICY STATEMENT.—After the initial submission, a school food authority shall not be required to submit a free and reduced price policy statement to a State educational agency under this Act unless there is a substantive change in the free and reduced price policy of the school food authority. A routine change in the policy of a school food authority, such as an annual adjustment of the income eligibility guidelines for free and reduced price meals, shall not be sufficient cause for requiring the school food authority to submit a policy statement.

(3) Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate which does not exceed the applicable family size[9–27] income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), shall be served a free lunch. Any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate greater than the applicable fam-

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[9–23] See note 9–20.

[9–24] Effective October 1, 2000, clauses (vi) and (vii) added by section 242(a)(2) of P.L. 106–224, 114 Stat. 411, June 20, 2000.

[9–25] See note 9–24.

[9–26] This subparagraph added by section 703 of P.L. 104–193, 110 Stat. 2289, Aug. 22, 1996.

[9–27] See note 9–13.

ily size[9–28] income level of the income eligibility guidelines for free lunches, as determined under paragraph (1), but less than or equal to the applicable family size[9–29] income level of the income eligibility guidelines for reduced price lunches, as determined under paragraph (1), shall be served a reduced price lunch. The price charged for a reduced price lunch shall not exceed 40 cents.

(4) No physical segregation of or other discrimination against any child eligible for a free lunch or a reduced price lunch under this subsection shall be made by the school nor shall there be any overt identification of any child by special tokens or tickets, announced or published list of names, or by other means.

(5)[9–30] Any child who has a parent or guardian who (A) is responsible for the principal support of such child and (B) is unemployed shall be served a free or reduced price lunch, respectively, during any period (i) in which such child's parent or guardian continues to be unemployed and (ii) the income of the child's parents or guardians during such period of unemployment falls within the income eligibility criteria for free lunches or reduced price lunches, respectively, based on the current rate of income of such parents or guardians. Local school authorities shall publicly announce that such children are eligible for free or reduced price lunch, and shall make determinations with respect to the status of any parent or guardian of any child under clauses (A) and (B) of the preceding sentence[9–31] on the basis of a statement executed in such form as the Secretary may prescribe by such parent or guardian. No physical segregation of, or other discrimination against, any child eligible for a free or reduced price lunch under this paragraph shall be made by the school nor shall there be any overt identification of any such child by special tokens or tickets, announced or published lists of names, or by any other means.

(6)[9–32](A) A child shall be considered automatically eligible for a free lunch and breakfast under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), respectively, without further application or eligibility determination, if the child is—[9–33]

(i)[9–34] a member of a household receiving assistance under the food stamp program authorized under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

[9–28] See note 9–13.

[9–29] See note 9–13.

[9–30] This paragraph added by section 6(d) of P.L. 94–105, 89 Stat. 513, Oct. 7, 1975.

[9–31] Section 803(a) of P.L. 97–35, 95 Stat. 525, Aug. 13, 1981, eliminated the word "solely" from this sentence.

[9–32] This paragraph added by section 323 of P.L. 99–500, 100 Stat. 1783–361, Oct. 18, 1986. Section 323 of P.L. 99–591, 100 Stat. 3341–364, Oct. 30, 1986, and section 4203 of P.L. 99–661, 100 Stat. 4072, Nov. 14, 1986, made the same addition.

Section 202(a)(1) of P.L. 101–147, 103 Stat. 908, Nov. 10, 1989, eliminated the duplicate provisions by providing that section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)), as similarly amended first by section 323 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99–500 (100 Stat. 1783–361), later by section 323 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99–591 (100 Stat. 3341–364), and later by section 4203 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661), and as then amended by section 1 of Public Law 100–356, is amended to read as if only the amendment made by section 4203 of the Child Nutrition Amendments of 1986 was enacted.

[9–33] Effective September 25, 1995, section 109(a)(1)(A) of P.L. 103–448, 108 Stat. 4705, Nov. 2, 1994, amended this subparagraph by striking "a member of".

[9–34] Effective September 25, 1995, section 109(a)(1)(B) of P.L. 103–448, 108 Stat. 4705, Nov. 2, 1994, amended this clause by inserting "a member of" after "(i)" and by striking "or" at the end.

(ii)[9–35] a member of a family (under the State program funded[9–36] under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995;[9–37] or

(iii)[9–38] enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A)).

(B) Proof of receipt of food stamps or assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995,[9–39] or of enrollment or participation in a Head Start program on the basis described in subparagraph (A)(iii),[9–40] shall be sufficient to satisfy any verification requirement imposed under paragraph (2)(C).

(7)[9–40A] EXCLUSION OF CERTAIN MILITARY HOUSING ALLOWANCES.—For each of fiscal years 2002 and 2003, the amount of a basic allowance provided under section 403 of title 37, United States Code, on behalf of a member of a uniformed service for housing that is acquired or constructed under subchapter IV of chapter 169 of title 10, United States Code, or any related provision of law, shall not be considered to be income for the purpose of determining the eligibility of a child who is a member of the household of the member of a uniformed service for free or reduced price lunches under this Act.

[9–35] Effective September 25, 1995, section 109(a)(1)(C) of P.L. 103–448, 108 Stat. 4705, Nov. 2, 1994, amended this clause by inserting "a member of" after "(ii)" and by striking the period at the end and inserting "; or".

[9–36] Effective July 1, 1997, section 109(g)(1)(B)(i)(I) of P.L. 104–193, 110 Stat. 2170, Aug. 22, 1996, amended this clause by striking "an AFDC assistance unit (under the aid to families with dependent children program authorized" and inserting "a family (under the State program funded".

[9–37] Effective July 1, 1997, section 109(g)(1)(B)(i)(II) of P.L. 104–193, 110 Stat. 2170, Aug. 22, 1996, amended this clause by striking ", in a State" and all that follows through "9902(2)))" and inserting "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

[9–38] Effective September 25, 1995, this clause added by section 109(a)(1)(D) of P.L. 103–448, 108 Stat. 4705, Nov. 2, 1994.

[9–39] Effective July 1, 1997, section 109(g)(1)(B)(ii) of P.L. 104–193, 110 Stat. 2170, Aug. 22, 1996, amended this subparagraph by striking "aid to families with dependent children" and inserting "assistance under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

[9–40] Effective September 25, 1995, section 109(a)(2) of P.L. 103–448, 108 Stat. 4705, Nov. 2, 1994, amended this subparagraph by striking "food stamps or aid to families with dependent children" and inserting "food stamps or aid to families with dependent children, or of enrollment or participation in a Head Start program on the basis described in subparagraph (A)(iii),".

[9–40A] Para. (7) added by sec. 4302(a) of P.L. 107–171, 116 Stat. 330, May 13, 2002.

(c)[9–41] School lunch[9–42] programs under this Act shall be operated on a nonprofit basis. Commodities purchased under the authority of section 32 of the Act of August 24, 1935,[9–43] [(7 U.S.C. 612c)] may be donated by the Secretary to schools, in accordance with the needs as determined by local school authorities, for utilization in the school lunch program under this Act as well as to other schools carrying out nonprofit school lunch programs and institutions authorized to receive such commodities.[9–44] The requirements of this section relating to the service of meals without cost or at a reduced cost shall apply to the lunch program of any school utilizing commodities donated under any provision of law.[9–45]

(d)[9–46](1) The Secretary shall require as a condition of eligibility for receipt of free or reduced price lunches that the member of the household who executes the application furnish the social security account number of the parent or guardian who is the primary wage earner responsible for the care of the child for whom the application is made, or that of another appropriate adult member of the child's household, as determined by the Secretary. The Secretary shall require that social security account numbers of all adult members of the household be provided if verification of the data contained in the application is sought under subsection (b)(2)(C).[9–47]

(2) No member of a household may be provided a free or reduced price lunch under this Act unless—

(A)[9–48] appropriate documentation relating to the income of such household (as prescribed by the Secretary) has been provided to the appropriate local school food authority so that such authority may calculate the total income of such household;

(B) documentation showing that the household is participating in the food stamp program under the Food Stamp Act of 1977 [(7 U.S.C. 2011 et seq.)] has been provided to the appropriate local school food authority; or

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[9–41] Section 702(b)(2) of P.L. 104–193, 110 Stat. 2288, Aug. 22, 1996, amended this subsection by striking the former second, fourth, and sixth sentences. Previously, the former fourth sentence was amended by section 305(b)(2)(C) of P.L. 101–147, 103 Stat. 914, Nov. 10, 1989, and the former sixth sentence was amended by Section 6(e) of P.L. 94–105, 89 Stat. 514, Oct. 7, 1975, and the former sixth sentence was amended by section 6(e) of P.L. 94–105, 89 Stat. 514, Oct. 7, 1975. Section 5 of P.L. 92–433, 86 Stat. 726, Sept. 26, 1972, designated this paragraph as subsection (c) and amended subsection to extend the provisions with respect to certain nonprofit private schools to all such schools.

The first sentence of section 201(a) of the Act entitled "An Act to extend the Agricultural Trade Development and Assistance Act of 1954, and for other purposes", approved September 21, 1959 (7 U.S.C. 1431c(a); 73 Stat. 610), prescribes standards for the enrichment and packaging of certain foods when such foods are made available for distribution under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

[9–42] Section 305(b)(2)(A) of P.L. 101–147, 103 Stat. 914, Nov. 10, 1989, amended the first sentence of subsection (c) by striking "School-lunch" and inserting "School lunch".

[9–43] Section 305(b)(2)(B) of P.L. 101–147, 103 Stat. 914, Nov. 10, 1989, amended this sentence by striking "(49 Stat. 774), as amended".

[9–44] The third sentence of section 211(a) of the Agricultural Trade Suspension Adjustment Act of 1980 (7 U.S.C. 4004(a)) permits the Secretary of Agriculture to distribute agricultural commodities to community food banks through the food distribution system used under the Richard B. Russell National School Lunch Act.

[9–45] Section 702(b)(1) of P.L. 104–193, 110 Stat. 2288, Aug. 22, 1996, amended this sentence by striking "of the provisions of law referred to in the preceding sentence" and inserting "provision of law".

[9–46] This subsection added by section 803(b) of P.L. 97–35, 95 Stat. 531, Aug. 13, 1981.

[9–47] Section 202(b)(2)(A) of P.L. 101–147, 103 Stat. 909, Nov. 10, 1989, struck "numbers of all adult" and all that follows and inserted the above text.

[9–48] Subparagraph (A) completely revised by section 202(b)(2)(B)(i) of P.L. 101–147, 103 Stat. 909, Nov. 10, 1989.

(C)[9–49] documentation has been provided to the appropriate local school food authority showing that the family is receiving assistance under the State program funded[9–50] under part A of title IV of the Social Security Act that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995.[9–51]

(e)[9–52] A school or school food authority participating in a program under this Act may not contract with a food service company to provide a la carte food service unless the company agrees to offer free, reduced price, and full-price reimbursable meals to all eligible children.

(f)[9–53]

(1) NUTRITIONAL REQUIREMENTS.—Except as provided in paragraph (2), not later than the first day of the 1996–1997 school year, schools that are participating in the school lunch or school breakfast program shall serve lunches and breakfasts under the program that—

(A) are consistent with the goals of the most recent Dietary Guidelines for Americans published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341); and

(B) provide, on the average over each week, at least—

(i) with respect to school lunches, ⅓ of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences; and

(ii) with respect to school breakfasts, ¼ of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences.

[9–49] Section 202(b)(2)(B) of P.L. 101–147, 103 Stat. 909, Nov. 10, 1989, added subparagraph (C) and made a conforming amendment to subparagraph (B).

[9–50] Effective July 1, 1997, section 109(g)(2)(A) of P.L. 104–193, 110 Stat. 2171, Aug. 22, 1996, amended this subparagraph by striking "program for aid to families with dependent children" and inserting "State program funded".

[9–51] Effective July 1, 1997, section 109(g)(2)(B) of P.L. 104–193, 110 Stat. 2171, Aug. 22, 1996, amended this subparagraph by inserting before the period at the end the following: "that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995".

[9–52] This subsection added by section 324 of P.L. 99–500, 100 Stat. 1783–361, Oct. 18, 1986. Section 324 of P.L. 99–591, 100 Stat. 3341–364, Oct. 30, 1986, and section 4204 of P.L. 99–661, 100 Stat. 4072, Nov. 14, 1986, made the same addition.

Section 305(a) of P.L. 101–147, 103 Stat. 914, Nov. 10, 1989, eliminated the duplicate provisions by providing that section 9(e) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(e)), as similarly added first by section 324 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99–500 (100 Stat. 1783–361), later by section 324 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99–591 (100 Stat. 3341–364), and later by section 4204 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661), is amended to read as if only the latest amendment was enacted.

[9–53] This subsection added by section 106(b) of P.L. 103–448, 108 Stat. 4702, Nov. 2, 1994.

Section 702(c)(1) of P.L. 104–193, 110 Stat. 2288, Aug. 22, 1996, amended this subsection by striking former paragraph (1), by striking "(2)", by redesignating former subparagraphs (A) through (D) as paragraphs (1) through (4), respectively, by amending paragraph (1) in its entirety, and by making conforming amendments to paragraphs (3) and (4).

(2) State educational agencies may grant waivers from the requirements of paragraph (1)[9–54] subject to criteria established by the appropriate State educational agency. The waivers shall not permit schools to implement the requirements later than July 1, 1998, or a later date determined by the Secretary.

(3) To assist schools in meeting the requirements of this subsection,[9–55] the Secretary—

(A) shall—

(i) develop, and provide to schools, standardized recipes, menu cycles, and food product specification and preparation techniques; and

(ii) provide to schools information regarding nutrient standard menu planning, assisted nutrient standard menu planning, and food-based menu systems; and

(B) may provide to schools information regarding other approaches, as determined by the Secretary.

(4)[9–56] USE OF ANY REASONABLE APPROACH.—

(A) IN GENERAL.—A school food service authority may use any reasonable approach, within guidelines established by the Secretary in a timely manner, to meet the requirements of this subsection,[9–57] including—

(i) using the school nutrition meal pattern in effect for the 1994–1995 school year; and

(ii) using any of the approaches described in paragraph (3).

(B) NUTRIENT ANALYSIS.—The Secretary may not require a school to conduct or use a nutrient analysis to meet the requirements of this subsection.[9–58]

(5)[9–59] WAIVER OF REQUIREMENT FOR WEIGHTED AVERAGES FOR NUTRIENT ANALYSIS.—During the period ending on September 30, 2003, the Secretary shall not require the use of weighted averages for nutrient analysis of menu items and foods offered or served as part of a meal offered or served under the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(g)[9–60] Not later than 1 year after the date of enactment of this subsection, the Secretary shall provide a notification to Congress that justifies the need for production records required under section 210.10(b) of title 7, Code of Federal Regulations, and describes how the Secretary has reduced paperwork relating to the school lunch and school breakfast programs.

(h)[9–61] FOOD SAFETY INSPECTIONS.—

[9–54] Section 102(a)(1) of P.L. 105–336, 112 Stat. 3144, Oct. 31, 1998, amended this paragraph by striking by striking "subparagraph (A)" and inserting "paragraph (1)".

[9–55] Section 102(a)(2) of P.L. 105–336, 112 Stat. 3144, Oct. 31, 1998, amended paragraphs (3) and (4) by striking "this paragraph" each place it appears and inserting "this subsection".

[9–56] This subparagraph amended in its entirety by section 2 of P.L. 104–149, May 29, 1996. See note 9–53 for redesignation and conforming amendments.

[9–57] See note 9–55.

[9–58] See note 9–55.

[9–59] This paragraph added by section 102(b) of P.L. 105–336, 112 Stat. 3144, Oct. 31, 1998.

[9–60] This subsection added by section 106(c) of P.L. 103–448, 108 Stat. 4703, Nov. 2, 1994.

[9–61] This subsection added by section 102(c) of P.L. 105–336, 112 Stat. 3144, Oct. 31, 1998. Former subsection (h) added by section 110 of P.L. 103–448, 108 Stat. 4705, Nov. 2, 1994, and struck by section 702(d) of P.L. 104–193, 110 Stat. 2289, Aug. 22, 1996.

(1) IN GENERAL.—Except as provided in paragraph (2), a school participating in the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) shall, at least once during each school year, obtain a food safety inspection conducted by a State or local governmental agency responsible for food safety inspections.

(2) EXCEPTION.—Paragraph (1) shall not apply to a school if a food safety inspection of the school is required by a State or local governmental agency responsible for food safety inspections.

(i)[9–62] SINGLE PERMANENT AGREEMENT BETWEEN STATE AGENCY AND SCHOOL FOOD AUTHORITY; COMMON CLAIMS FORM.—

(1) IN GENERAL.—If a single State agency administers any combination of the school lunch program under this Act, the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), the summer food service program for children under section 13 of this Act, or the child and adult care food program under section 17 of this Act, the agency shall—

(A) require each school food authority to submit to the State agency a single agreement with respect to the operation by the authority of the programs administered by the State agency; and

(B) use a common claims form with respect to meals and supplements served under the programs administered by the State agency.

(2) ADDITIONAL REQUIREMENT.—The agreement described in paragraph (1)(A) shall be a permanent agreement that may be amended as necessary.

(j)[9–63] PURCHASES OF LOCALLY PRODUCED FOODS.—

(1) IN GENERAL.—The Secretary shall—

(A) encourage institutions participating in the school lunch program under this Act and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) to purchase, in addition to other food purchases, locally produced foods for school meal programs, to the maximum extent practicable and appropriate;

(B) advise institutions participating in a program described in subparagraph (A) of the policy described in that subparagraph and post information concerning the policy on the website maintained by the Secretary; and

(C) in accordance with requirements established by the Secretary, provide startup grants to not more than 200 institutions to defray the initial costs of equipment, materials, and storage facilities, and similar costs, incurred in carrying out the policy described in subparagraph (A).

(2) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There is authorized to be appropriated to carry out this subsection $400,000 for each of fiscal years 2003 through 2007, to remain available until expended.

[9–62] This subsection added by section 102(d) of P.L. 105–336, 112 Stat. 3144, Oct. 31, 1998.

[9–63] Subsec. (j) added by sec. 4303 of P.L. 107–171, 116 Stat. 331, May 13, 2002.

(B) LIMITATION.—No amounts may be made available to carry out this subsection unless specifically provided by an appropriation Act.

DISBURSEMENT TO SCHOOLS BY THE SECRETARY

SEC. 10.[10–1] [42 U.S.C. 1759] (a) The Secretary shall withhold funds payable to a State under this Act and disburse the funds directly to schools, institutions, or service institutions within the State for the purposes authorized by this Act to the extent that the Secretary has so withheld and disbursed such funds continuously since October 1, 1980, but only to such extent (except as otherwise required by subsection (b)). Any funds so withheld and disbursed by the Secretary shall be used for the same purposes, and shall be subject to the same conditions, as applicable to a State disbursing funds made available under this Act. If the Secretary is administering (in whole or in part) any program authorized under this Act, the State in which the Secretary is administering the program may, upon request to the Secretary, assume administration of that program.

(b) If a State educational agency is not permitted by law to disburse the funds paid to it under this Act to any of the nonpublic schools in the State, the Secretary shall disburse the funds directly to such schools within the State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to public schools within the State by the State educational agency.

SPECIAL ASSISTANCE

SEC. 11.[11–1] [42 U.S.C. 1759a] (a)[11–2](1)(A)[11–3] Except as provided in section 10 of this Act, in each fiscal year each State educational agency shall receive special assistance payments in an amount equal to the sum of the product obtained by multiplying the number of lunches (consisting of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary pursuant to subsection 9(a) of this Act) served free to children eligible for such lunches in schools within that State during such fiscal year by the special assistance factor for free lunches prescribed by the Secretary for such fiscal year and the product obtained by mul-

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[10–1] Section 4 of P.L. 87–823, 76 Stat. 945, Oct. 15, 1962, changed the apportionment formula used in disbursing funds directly to schools. Section 1(b) of P.L. 91–248, 84 Stat. 208, May 14, 1970, changed apportionment formula again. Section 4(d) of P.L. 92–433, 86 Stat. 726, Sept. 26, 1972, added a proviso that the Secretary shall make payments directly to non-profit private schools under same conditions as prescribed for State agencies, beginning with the fiscal year ending June 30, 1974. Section 3(b) of P.L. 93–150, 87 Stat. 562, Nov. 7, 1973, added a reference to section 11 of this Act in the proviso. Section 7 of P.L. 94–105, 89 Stat. 514, Oct. 7, 1975, completely revised this section. Section 817 of P.L. 97–35, 95 Stat. 531, Aug. 13, 1981, completely revised section again.

[11–1] The present section 11 was originally added by section 6 of P.L. 87–823, 76 Stat. 946, Oct. 15, 1962. Former section 11 was designated section 12 by section 5 of P.L. 87–823, 76 Stat. 945, Oct. 15, 1962. Section 7 of P.L. 91–248, 84 Stat. 211, May 14, 1970, substantially amended this section by deleting provisions limiting special assistance to schools drawing attendance from areas in which poor economic conditions exist, basing the apportionment of funds upon number of children instead of number of lunches, and selecting schools on the basis of economic factors. Section 4 of P.L. 92–153, 85 Stat. 420, Nov. 5, 1971, added provisions for a base factor of 40 cents for free lunches and 40 cents, less the highest reduced price charged, for reduced price lunches. This section completely revised by section 3(a) of P.L. 93–150, 87 Stat. 561, Nov. 7, 1973.

[11–2] Section 801 of P.L. 97–35, 95 Stat. 521, Aug. 13, 1981, redesignated subsection (a) as (a)(1) and clauses (1) and (2) as (A) and (B), respectively, and deleted obsolete language concerning adjustments of rates.

[11–3] Section 111(1) of P.L. 103–448, 108 Stat. 4706, Nov. 2, 1994, amended this paragraph by inserting "(A)" after "(1)".

tiplying the number of lunches served at a reduced price to children eligible for such reduced price lunches in schools within that State during such fiscal year by the special assistance factor for reduced price lunches prescribed by the Secretary for such fiscal year.

(B)[11–4] Except as provided in subparagraph (C), (D), or (E), in the case of any school which determines that at least 80 percent of the children in attendance during a school year (hereinafter in this sentence referred to as the "first school year") are eligible for free lunches or reduced price lunches, special assistance payments shall be paid to the State educational agency with respect to that school, if that school so requests for the school year following the first school year, on the basis of the number of free lunches or reduced priced lunches, as the case may be, that are served by that school during the school year for which the request is made, to those children who were determined to be so eligible in the first school year and the number of free lunches and reduced price lunches served during that year to other children determined for that year to be eligible for such lunches.

(C)[11–5](i) Except as provided in subparagraph (D), in the case of any school that—

(I) elects to serve all children in the school free lunches under the school lunch program during any period of 4 successive school years,[11–6] or in the case of a school that serves both lunches and breakfasts, elects to serve all children in the school free lunches and free breakfasts under the school lunch program and the school breakfast program established under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) during any period of 4 successive school years;[11–6] and

(II) pays, from sources other than Federal funds, for the costs of serving the lunches or breakfasts that are in excess of the value of assistance received under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches or breakfasts served during the period;

special assistance payments shall be paid to the State educational agency with respect to the school during the period on the basis of the number of lunches or breakfasts determined under clause (ii) or (iii).

(ii) For purposes of making special assistance payments under clause (i), except as provided in clause (iii), the number of lunches or breakfasts served by a school to children who are eligible for free lunches or breakfasts or reduced price lunches or breakfasts during each school year of the 4-school-year period[11–7] shall be considered to be equal to the number of lunches or breakfasts served by the school to children eligible for free lunches or breakfasts or reduced price lunches or breakfasts during the first school year of the period.

[11–4] Section 111(2) of P.L. 103–448, 108 Stat. 4706, Nov. 2, 1994, amended the second sentence by striking "In the case of" and inserting "(B) Except as provided in subparagraph (C), (D), or (E), in the case of".

[11–5] Section 111(3) of P.L. 103–448, 108 Stat. 4706, Nov. 2, 1994, struck the third and fourth sentences and inserted subparagraphs (C) through (E).

[11–6] Section 103(a)(1)(A) of P.L. 105–336, 112 Stat. 3145, Oct. 31, 1998, amended this subclause by striking "3 successive school years" each place it appears and inserting "4 successive school years".

[11–7] Section 103(a)(1)(B) of P.L. 105–336, 112 Stat. 3145, Oct. 31, 1998, amended clauses (ii) and (iii) by striking "3-school-year period" each place it appears and inserting "4-school-year period".

(iii) For purposes of computing the amount of the payments, a school may elect to determine on a more frequent basis the number of children who are eligible for free or reduced price lunches or breakfasts who are served lunches or breakfasts during the 4-school-year period. [11–7]

(D) [11–8](i) In the case of any school that [11–9] is receiving special assistance payments under this paragraph for a 4-school-year period [11–10] described in subparagraph (C), the State may grant, at the end of the 4-school-year period, [11–10] an extension of the period for an additional 4 school years, [11–11] if the State determines, through available socioeconomic data approved by the Secretary, that the income level of the population of the school has remained stable.

(ii) [11–12] A school described in clause (i) [11–13] may reapply to the State at the end of the 4-school-year period, [11–14] and at the end of each 4-school-year period [11–14] thereafter for which the school receives special assistance payments under this paragraph, for the purpose of continuing to receive the payments for a subsequent 4-school-year period. [11–14]

(iii) If the Secretary determines after considering the best available socioeconomic data that the income level of families of children enrolled in a school has not remained stable, the Secretary may require the submission of applications for free and reduced price lunches, or for free and reduced price lunches and breakfasts, in the first school year of any 4-school-year period [11–15] for which the school receives special assistance payments under this paragraph, for the purpose of calculating the special assistance payments.

(iv) For the purpose of updating information and reimbursement levels, a school described in clause (i) that carries out a school lunch or school breakfast program may at any time require submission of applications for free and reduced price lunches or for free and reduced price lunches and breakfasts.

(E) [11–16](i) In the case of any school that—

(I) elects to serve all children in the school free lunches under the school lunch program during any period of 4 successive school years, or in the case of a school that serves both lunches and breakfasts, elects to serve all children in the school free lunches and free breakfasts under the school lunch program and the school breakfast program during any period of 4 successive school years; and

(II) pays, from sources other than Federal funds, for the costs of serving the lunches or breakfasts that are in excess of

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[11–8] See note 11–5.

[11–9] Section 704(a) of P.L. 104–193, 110 Stat. 2289, Aug. 22, 1996, amended this clause by striking ", on the date of enactment of this subparagraph,".

[11–10] Section 103(a)(2)(A)(i) of P.L. 105–336, 112 Stat. 3145, Oct. 31, 1998, amended this clause by striking "3-school-year period" each place it appears and inserting "4-school-year period".

[11–11] Section 103(a)(2)(A)(ii) of P.L. 105–336, 112 Stat. 3145, Oct. 31, 1998, amended this clause by striking "2 school years" and inserting "4 school years".

[11–12] Section 103(a)(2)(B)(i) of P.L. 105–336, 112 Stat. 3145, Oct. 31, 1998, amended this clause by striking the former first sentence.

[11–13] Section 103(a)(2)(B)(ii) of P.L. 105–336, 112 Stat. 3145, Oct. 31, 1998, amended this clause by striking "The school" and inserting "A school described in clause (i)".

[11–14] Section 103(a)(2)(B)(iii) of P.L. 105–336, 112 Stat. 3145, Oct. 31, 1998, amended this clause by striking "5-school-year period" each place it appears and inserting "4-school-year period".

[11–15] Section 103(a)(2)(C) of P.L. 105–336, 112 Stat. 3145, Oct. 31, 1998, amended this clause by striking "5-school-year period" and inserting "4-school-year period".

[11–16] See note 11–5.

Section 103(a)(3) of P.L. 105–336, 112 Stat. 3145, Oct. 31, 1998, struck former clause (iii) of this subparagraph.

the value of assistance received under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) with respect to the number of lunches or breakfasts served during the period; total Federal cash reimbursements and total commodity assistance shall be provided to the State educational agency with respect to the school at a level that is equal to the total Federal cash reimbursements and total commodity assistance received by the school in the last school year for which the school accepted applications under the school lunch or school breakfast program, adjusted annually for inflation in accordance with paragraph (3)(B) and for changes in enrollment, to carry out the school lunch or school breakfast program.

(ii) A school described in clause (i) may reapply to the State at the end of the 4-school-year period described in clause (i), and at the end of each 4-school-year period thereafter for which the school receives reimbursements and assistance under this subparagraph, for the purpose of continuing to receive the reimbursements and assistance for a subsequent 4-school-year period. The State may approve an application under this clause if the State determines, through available socioeconomic data approved by the Secretary, that the income level of the population of the school has remained consistent with the income level of the population of the school in the last school year for which the school accepted the applications described in clause (i).

(2) [11–17] The special assistance factor prescribed by the Secretary for free lunches shall be 98.75 cents and the special assistance factor for reduced price lunches shall be 40 cents less than the special assistance factor for free lunches.

(3)(A) The Secretary shall prescribe on July 1, 1982, and on each subsequent July 1, an annual adjustment in the following:

(i) The national average payment rates for lunches (as established under section 4 of this Act).

(ii) the special assistance factor for lunches (as established under paragraph (2) of this subsection).

(iii) The national average payment rates for breakfasts (as established under section 4(b) of the Child Nutrition Act of 1966 **[**(42 U.S.C. 1773(b))**]**). [11–18]

(iv) The national average payment rates for supplements (as established under section 17(c) of this Act).

(B) [11–19] COMPUTATION OF ADJUSTMENT.—

(i) IN GENERAL.—The annual adjustment under this paragraph shall reflect changes in the cost of operating meal programs under this Act and the Child Nutrition Act of 1966 **[**(42 U.S.C. 1771 et seq.)**]**, as indicated by the change in the series for food away from home of the Consumer Price Index for all Urban Con-

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[11–17] Paragraphs (2) and (3) added by section 801 of P.L. 97–35, 95 Stat. 522, Aug. 13, 1981.

[11–18] Section 4(b)(1)(B) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(1)(B)) requires that the national average payment rates for breakfasts served under such Act be adjusted pursuant to section 11(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1759a(a)).

[11–19] Section 103(b)(1)(A) of P.L. 105–336, 112 Stat. 3145, Oct. 31, 1998, amended this subparagraph by striking "(B) The annual" and inserting "(B) COMPUTATION" and all that follows through "(i) IN GENERAL.—The annual".

Section 4(b)(2)(B)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(2)(B)(ii)) provides for the adjustment of the maximum payment for each free breakfast in accordance with this subparagraph.

sumers, published by the Bureau of Labor Statistics of the Department of Labor.

(ii)[11–20] BASIS.—Each annual adjustment shall reflect the changes in the series for food away from home for the most recent 12-month period for which such data are available.

(iii)[11–21] ROUNDING.—

(I) THROUGH JUNE 30, 1999.—For the period ending June 30, 1999, the adjustments made under this paragraph shall be computed to the nearest one-fourth cent, except that adjustments to payment rates for meals and supplements served to individuals not determined to be eligible for free or reduced price meals and supplements shall be computed to the nearest lower cent increment and based on the unrounded amount for the preceding 12-month period.[11–22]

(II)[11–23] JULY 1, 1999, AND THEREAFTER.—On July 1, 1999, and on each subsequent July 1, the national average payment rates for meals and supplements shall be adjusted to the nearest lower cent increment and shall be based on the unrounded amounts for the preceding 12-month period.

(b) Except as provided in section 10 of the Child Nutrition Act of 1966 **[**(42 U.S.C. 1779)**]**, the special assistance payments made to each State agency during each fiscal year under the provisions of this section shall be used by such State agency to assist schools of that State in[11–24] providing free and reduced price lunches served to children pursuant to subsection 9(b) of this Act. The amount of such special assistance funds that a school shall from time to time receive, within a maximum per lunch amount established by the Secretary for all States, shall be based on the need of the school for such special assistance. Such maximum per lunch amount established by the Secretary shall not be less than 60 cents.

(c) Special assistance payments to any State under this section shall be made as provided in the last sentence of section 7 of this Act.

[11–20] Section 103(b)(1)(B) of P.L. 105–336, 112 Stat. 3145, Oct. 31, 1998, amended this subparagraph by striking "Each annual" and inserting "(ii) BASIS.—Each annual".

[11–21] Section 103(b)(1)(C) of P.L. 105–336, 112 Stat. 3145, Oct. 31, 1998, amended this subparagraph by striking "The adjustments" and inserting "(iii) ROUNDING.—" and all that follows through "June 30, 1999, the adjustments".

[11–22] Effective July 1, 1997, section 704(b)(1) of P.L. 104–193, 110 Stat. 2289, Aug. 22, 1996, amended this sentence by adding before the period at the end the following: ", except that adjustments to payment rates for meals and supplements served to individuals not determined to be eligible for free or reduced price meals and supplements shall be computed to the nearest lower cent increment and based on the unrounded amount for the preceding 12-month period".

[11–23] Subclause (II) added by section 103(b)(1)(D) of P.L. 105–336, 112 Stat. 3146, Oct. 31, 1998.

[11–24] Section 819 of P.L. 97–35, 95 Stat. 533, Aug. 13, 1981, removed the words "financing the cost of".

(d) [11–25](1) [11–26] The Secretary, when appropriate, may request each school participating in the school lunch program under this Act to report monthly to the State educational agency [11–27] the average number of children in the school who received free lunches and the average number of children who received reduced price lunches during the immediately preceding month.

(2) On request of the Secretary, the [11–28] State educational agency of each State shall report to the Secretary [11–29] the average number of children in the State who received free lunches and the average number of children in the State who received reduced price lunches during the immediately preceding month.

(e) [11–30] Commodity only schools shall also be eligible for special assistance payments under this section. Such schools shall serve meals free to children who meet the eligibility requirements for free meals under section 9(b) of this Act, and shall serve meals at a reduced price, not exceeding the price specified in section 9(b)(3) of this Act, to children meeting the eligibility requirements for reduced price meals under such section. No physical segregation of, or other discrimination against, any child eligible for a free or reduced priced lunch shall be made by the school, nor shall there by any overt identification of any such child by any means.

(f) [11–31] INFORMATION AND ASSISTANCE CONCERNING REIMBURSEMENT OPTIONS.—

(1) IN GENERAL.—From funds made available under paragraph (3), the Secretary shall provide grants to not more than 10 State agencies in each of fiscal years 2000 and 2001 to enable the agencies, in accordance with criteria established by the Secretary, to—

(A) identify separately in a list—

(i) schools that are most likely to benefit from electing to receive special assistance under subparagraph (C) or (E) of subsection (a)(1); and

(ii) schools that may benefit from electing to receive special assistance under subparagraph (C) or (E) of subsection (a)(1);

(B) make the list of schools identified under this subsection available to each school district within the State and to the public;

[11–25] Section 704(c) of P.L. 104–193, 110 Stat. 2290, Aug. 22, 1996, struck former subsection (d) and redesignated formers subsections (e) and (f) as subsections (d) and (e), respectively. Previously, language added by section 7 of P.L. 91–248, 84 Stat. 212, May 14, 1970, and designated as subsection (h). Section 3(a) of P.L. 93–150, 87 Stat. 561, Nov. 7, 1973, deleted old subsections (d) and (e) and designated then subsections (g) and (h) as subsections (d) and (e), respectively. Section 8 of P.L. 94–105, 89 Stat. 514, Oct. 7, 1975, amended this subsection to change planning from a fiscal to a school year basis, and placed the date of the plans' submission at the discretion of the Secretary. This section was further amended by section 812 of P.L. 97–35, 95 Stat. 530, Aug. 13, 1981, to delete former paragraph (1) which required States to file State plans.

[11–26] Section 812 of P.L. 97–35, 95 Stat. 530, Aug. 13, 1981, redesignated paragraphs (2) and (3) as (1) and (2), respectively, and eliminated the requirement that schools and States provide an estimate of the number of children eligible for free or reduced meals.

[11–27] Section 203 of P.L. 101–147, 103 Stat. 909, Nov. 10, 1989, amended paragraph (1) by striking "Each school participating in the school lunch program under this Act shall report each month to its State educational agency" and inserting "The Secretary" and all that follows through "State educational agency".

[11–28] Section 704(c)(2)(A) of P.L. 104–193, 110 Stat. 2290, Aug. 22, 1996, amended this paragraph by striking "The" and inserting "On request of the Secretary, the".

[11–29] Section 704(c)(2)(B) of P.L. 104–193, 110 Stat. 2290, Aug. 22, 1996, amended this paragraph by striking "each month".

[11–30] This subsection added by section 813 of P.L. 97–35, 95 Stat. 530, Aug. 13, 1981.

[11–31] This subsection added by section 103(c)(1) of P.L. 105–336, 112 Stat. 3146, Oct. 31, 1998.

(C) provide technical assistance to schools, or school districts containing the schools, to enable the schools to evaluate and receive special assistance under subparagraph (C) or (E) of subsection (a)(1);

(D) take any other actions the Secretary determines are consistent with receiving special assistance under subparagraph (C) or (E) of subsection (a)(1) and receiving a grant under this subsection; and

(E) as soon as practicable after receipt of the grant, but not later than September 30, 2003,[11–32] take the actions described in subparagraphs (A) through (D).

(2) REPORT.—

(A)[11–33] IN GENERAL.—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate—

(i) not later than January 1, 2003, an interim report on the activities of the State agencies receiving grants under this subsection; and

(ii) not later than January 1, 2004, a final report on the activities of the State agencies receiving grants under this subsection.

(B) CONTENTS.—In the reports,[11–34] the Secretary shall specify—

(i) the number of schools identified as likely to benefit from electing to receive special assistance under subparagraph (C) or (E) of subsection (a)(1);

(ii) the number of schools identified under this subsection that have elected to receive special assistance under subparagraph (C) or (E) of subsection (a)(1); and

(iii) a description of how the funds and technical assistance made available under this subsection have been used.

(3) FUNDING.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary $2,250,000 for each of fiscal years 2000 and 2001 to carry out this subsection. The Secretary shall be entitled to receive the funds and shall accept the funds, without further appropriation.

MISCELLANEOUS PROVISIONS AND DEFINITIONS

SEC. 12.[12–1] [42 U.S.C. 1760] (a) States, State educational agencies, and schools participating in the school lunch program under this Act shall keep such accounts and records as may be necessary to enable the Secretary to determine whether the provisions of this Act are being complied with. Such accounts and records shall be available at any reasonable time[12–2] for inspection and audit by

[11–32] Section 766(1) of P.L. 107–76, 115 Stat. 744, Nov. 28, 2001, amended this subparagraph by striking "2001" and inserting "2003".

[11–33] Section 766(2)(A) of P.L. 107–76, 115 Stat. 744, Nov. 28, 2001, amended subparagraph (A) in its entirety.

[11–34] Section 766(2)(B) of P.L. 107–76, 115 Stat. 744, Nov. 28, 2001, amended subparagraph (B) by striking "report" and inserting "reports".

[12–1] Section 12 was section 11 until renumbered by section 5 of P.L. 87–823, 76 Stat. 945, Oct. 15, 1962.

[12–2] Section 705(a) of P.L. 104–193, 110 Stat. 2290, Aug. 22, 1996, amended this sentence by striking "at all times be available" and inserting "be available at any reasonable time".

representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines is necessary.

(b) The Secretary shall incorporate, in the Secretary's [12–3] agreements with the State educational agencies, the express requirements under this Act with respect to the operation of the school lunch program under this Act insofar as they may be applicable and such other provisions as in the Secretary's [12–4] opinion are reasonably necessary or appropriate to effectuate the purpose of this Act.

(c) [12–5] In carrying out the provisions of this Act, the Secretary shall not [12–6] impose any requirement with respect to teaching personnel, curriculum, instruction, methods of instruction, and materials of instruction in any school.

(d) [12–7] For the purposes of this Act—

(1) [12–8] CHILD.—

(A) IN GENERAL.—The term "child" includes an individual, regardless of age, who—

(i) is determined by a State educational agency, in accordance with regulations prescribed by the Secretary, to have one or more disabilities; [12–9] and

(ii) is attending any institution, as defined in section 17(a), or any nonresidential public or nonprofit private school of high school grade or under, for the purpose of participating in a school program established for individuals with disabilities.

(B) RELATIONSHIP TO CHILD AND ADULT CARE FOOD PROGRAM.—No institution that is not otherwise eligible to participate in the program under section 17 shall be considered eligible because of this paragraph.

(2) [12–10] "Commodity only schools" means schools that do not participate in the school lunch program under this Act, but

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[12–3] Section 306(b)(1) of P.L. 101–147, 103 Stat. 915, Nov. 10, 1989, amended subsection (b) by striking "his" each place it appears and inserting "the Secretary's".

[12–4] See note 12–3.

[12–5] Section 5 of P.L. 87–823, 76 Stat. 945, Oct. 15, 1962, deleted a requirement of equitable distribution of funds in States maintaining separate schools for minority and majority races.

[12–6] Section 705(b) of P.L. 104–193, 110 Stat. 2290, Aug. 22, 1996, amended this subsection by striking "neither the Secretary nor the State shall" and inserting "the Secretary shall not".

[12–7] Section 705(c)(2) and (3) of P.L. 104–193, 110 Stat. 2290, Aug. 22, 1996, amended this subsection by striking former paragraphs (3) and (4) and by redesignating former paragraphs (1), (2), and (5) through (9) as paragraphs (6), (7), (3), (4), (2), (5), and (1), respectively, and rearranging the paragraphs so as to appear in numerical order.

Previously, section 9(c) of P.L. 94–105, 89 Stat. 514, Oct. 7, 1975, deleted a definition of "nonprofit private school" found in paragraph (3) and renumbered former paragraphs (4) through (7) as former paragraphs (3) through (6), respectively.

Former paragraph (3) (defining "participation rate") was added by section 5 of P.L. 87–823, 76 Stat. 945, Oct. 15, 1962. Section 1(b) of P.L. 91–248, 84 Stat. 207, May 14, 1970, provided for the use of data from a different fiscal year. Section 819 of P.L. 97–35, 95 Stat. 533, Aug. 13, 1981, eliminated former paragraph (3) which defined "food service equipment" and renumbered paragraph (4) as paragraph (3).

Former paragraph (4) (defining "assistance need rate") was added by section 5 of P.L. 87–823, 76 Stat. 945, Oct. 15, 1962. Renumbered from (5) to (4) by section 819 of P.L. 97–35, 95 Stat. 533, Aug. 13, 1981.

[12–8] This definition added by section 701(b) of P.L. 104–193, 110 Stat. 2288, Aug. 22, 1996. For redesignation, see note 12–7.

[12–9] Section 107(j)(3)(A)(i) of P.L. 105–336, 112 Stat. 3153, Oct. 31, 1998, amended this subparagraph by striking "mental or physical" each place it appears.

[12–10] This definition added by section 813, P.L. 97–35, 95 Stat. 530, Aug. 13, 1981. For redesignation, see note 12–7.

which receive commodities made available by the Secretary for use by such schools in nonprofit lunch programs.

(3) [12–11] "School" means (A) any public or nonprofit private school of high school grade or under [12–12], and (B) any public or licensed nonprofit private residential child care institution (including, but not limited to, orphanages and homes for the mentally retarded, but excluding Job Corps Centers funded by the Department of Labor) [12–13]. [12–14] For purposes of this paragraph, the term "nonprofit", when applied to any such private school or institution, means any such school or institution which is exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1986. [12–15]

(4) [12–16] "School year" means the annual period from July 1 through June 30.

(5) [12–17] "Secretary" means the Secretary of Agriculture.

[12–11] This definition transferred from section 4 by section 5 of P.L. 87–823, 76 Stat. 946, Oct. 15, 1962. Renumbered from (6) to (5) by section 819 of P.L. 97–35, 95 Stat. 533, Aug. 13, 1981. For redesignation, see note 12–7.

[12–12] Section 3(a)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)(1)) authorizes a special milk program for children in schools and institutions which do not participate in a meal service program authorized under such Act or the Richard B. Russell National School Lunch Act.

Section 3(a)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)(2)) provides that the limitation imposed under section 3(a)(1) of such Act for participation of nonprofit schools in the special milk program shall not apply to split-session kindergarten programs conducted in schools in which children do not have access to the meal service program operating in schools the children attend as authorized under such Act (42 U.S.C. 1771 et seq.) and this Act. Section 4209 of Public Law 99–661 added paragraph (2) of section 3(a) of the Child Nutrition Act of 1966 (effective October 1, 1986). In an earlier enactment, section 329 of Public Law 99–591 added the identical paragraph (effective July 1, 1987).

[12–13] Section 9(c) of P.L. 94–105, 89 Stat. 514, Oct. 7, 1975, expanded this definition to include nonprofit private residential child care institutions. Section 205 of P.L. 96–499, 94 Stat. 2601, Dec. 5, 1980, added the "Job Corp Centers" exclusion.

[12–14] Effective October 1, 1995, section 112(a) of P.L. 103–448, 108 Stat. 4708, Nov. 2, 1994, amended this paragraph by striking clause (C) and making conforming amendments.

[12–15] Section 808 of P.L. 97–35, 95 Stat. 527, Aug. 13, 1981, changed the definition of "non-profit" to exclude private schools whose average yearly tuition exceeds $1,500.00 per child. Section 325(a) of P.L. 99–500, 100 Stat. 1783–361, Oct. 18, 1986, and section 325(a) of P.L. 99–591, 100 Stat. 3341–364, Oct. 30, 1986, deleted the phrase "except private schools whose average yearly tuition exceeds $1,500 per child". This provision was effective July 1, 1987, under section 325(c) of both acts. Section 4205(a) of P.L. 99–661, 100 Stat. 4072, Nov. 14, 1986, substituted "2,000" for "1,500" and added after the first sentence the following: "On July 1, 1988, and each July 1 thereafter, the Secretary shall adjust the tuition limitation amount prescribed in clause (A) of the first sentence of this paragraph to reflect changes in the Consumer Price Index for All Urban Consumers during the most recent 12-month period for which the data is available." Title I, chapter X, P.L. 100–71, 101 Stat. 429, July 11, 1987, substantially revised this section, removing the tuition limitation and the sentence added by P.L. 99–661. P.L. 100–71 also substituted Corps" for "Corp" in subsection (B) and "nonprofit" for "non-profit" in subsection (C).

Section 306(b)(2) of P.L. 101–147, 103 Stat. 915, Nov. 10, 1989, amended paragraph (5) by striking "Internal Revenue Code of 1954" and inserting "Internal Revenue Code of 1986".

Section 13(3)(A) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237; 7 U.S.C. 612c note) defines "recipient agency", for purposes of such Act, to include a school authorized under the Richard B. Russell National School Lunch Act to operate lunch programs or similar programs and to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase.

[12–16] This definition added by section 12(b) of P.L. 95–627, 92 Stat. 3624, Nov. 10, 1978, and the paragraph changed from (7) to (6) by section 819 of P.L. 97–35, 95 Stat. 533, Aug. 13, 1981. For redesignation, see note 12–7.

[12–17] This definition added by section 373(a) of P.L. 99–500, 100 Stat. 1783–369, Oct. 18, 1986. For redesignation, see note 12–7. Section 373(a) of P.L. 99–591, 100 Stat. 3341–372, Oct. 30, 1986, and section 4503(a) of P.L. 99–661, 100 Stat. 4081, Nov. 14, 1986, made the same addition.

Section 306(a)(1) of P.L. 101–147, 103 Stat. 914, Nov. 10, 1989, eliminated the duplicate provisions by providing that section 12(d)(8) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(d)(8)), as similarly added first by section 373(a) of the School

Continued

(6) [12–18] "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands.

(7) [12–19] "State educational agency" means, as the State legislature may determine, (A) the chief State school officer (such as the State superintendent of public instruction, commissioner of education, or similar officer), or (B) a board of education controlling the State department of education.

(8) [12–20] DISABILITY.—The term 'disability' has the meaning given the term in the Rehabilitation Act of 1973 for purposes of title II of that Act (29 U.S.C 760 et seq.).

(e) [12–21] The value of assistance to children under this Act shall not be considered to be income or resources for any purposes under any Federal or State laws, including laws relating to taxation and welfare and public assistance programs. [12–22]

(f) [12–23] In providing assistance for breakfasts, lunches, suppers, and supplements [12–24] served in Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands of the United States, [12–25] and the Commonwealth of the Northern Mariana Islands, the Secretary may establish appropriate adjustments for each such State to the national average payment rates prescribed under sections 4, 11, 13, and 17 [12–26] of this Act and section 4 of the Child Nutrition Act of 1966 **[**(42 U.S.C. 1773)**]**, to reflect the differences between the costs of providing meals and supplements [12–27] in those States and the costs of providing meals and supplements [12–27] in all other States.

(g) [12–28] Whoever embezzles, willfully misapplies, steals, or obtains by fraud any funds, assets, or property that are the subject

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Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99–500 (100 Stat. 1783–369), later by section 373(a) of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99–591 (100 Stat. 3341–372), and later by section 4503(a) of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661), is amended to read as if only the latest amendment was enacted.

[12–18] Amended by section 5 of P.L. 82–518, 66 Stat. 591, July 12, 1952, to include Guam; by section 3 of P.L. 87–688, 76 Stat. 587, Sept. 25, 1962, to include American Samoa; by section 5 of P.L. 87–823, 76 Stat. 945, Oct. 15, 1962, to recognize Alaskan and Hawaiian statehood; by section 9(b) of P.L. 94–105, 89 Stat. 514, Oct. 7, 1975, to include the Trust Territory of the Pacific Islands; and by section 705(c)(1) of P.L. 104–193, 110 Stat. 2290, Aug. 22, 1996, to strike "the Trust Territory of the Pacific Islands" and insert "the Commonwealth of the Northern Mariana Islands". For redesignation, see note 12–7.

[12–19] Section 5 of P.L. 87–823, 76 Stat. 945, Oct. 15, 1962, deleted an exception applicable to the District of Columbia and obsolete language. For redesignation, see note 12–7.

[12–20] This definition added by section 107(j)(3)(A)(ii) of P.L. 105–336, 112 Stat. 3153, Oct. 31, 1998.

[12–21] This subsection added by section 9(d) of P.L. 94–105, 89 Stat. 515, Oct. 7, 1975.

[12–22] Section 245A(h)(4)(A) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(4)(A)) exempts assistance provided under the Richard B. Russell National School Lunch Act from the temporary disqualification of newly legalized aliens from receiving certain public welfare assistance.

[12–23] This subsection added by section 10(a) of P.L. 95–627, 92 Stat. 3623, Nov. 10, 1978.

[12–24] Section 104(a)(1) of P.L. 105–336, 112 Stat. 3147, Oct. 31, 1998, amended this subsection by striking "school breakfasts and lunches" and inserting "breakfasts, lunches, suppers, and supplements".

[12–25] Section 705(d) of P.L. 104–193, 110 Stat. 2290, Aug. 22, 1996, amended this subsection by striking "the Trust Territory of the Pacific Islands,".

[12–26] Section 104(a)(2) of P.L. 105–336, 112 Stat. 3147, Oct. 31, 1998, amended this subsection by striking "sections 4 and 11" and inserting "sections 4, 11, 13, and 17".

[12–27] Section 104(a)(3) of P.L. 105–336, 112 Stat. 3147, Oct. 31, 1998, amended this subsection by striking "lunches and breakfasts" each place it appears and inserting "meals and supplements"..

[12–28] This subsection added by section 10(a) of P.L. 95–627, 92 Stat. 3623, Nov. 10, 1978.

Section 17(p) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(p)) authorizes a court to order a person that is convicted of a violation of this subsection, with respect to food

of a grant or other form of assistance under this Act or the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)], whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such funds, assets, or property to personal [12–29] use or gain, knowing such funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such funds, assets, or property are of the value of $100 or more, be fined not more than $25,000 [12–30] or imprisoned not more than five years, or both, or, if such funds, assets, or property are of a value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both. [12–31]

(h) [12–32] No provision of this Act or of the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)] shall require any school receiving funds under this Act and the Child Nutrition Act of 1966 to account separately for the cost incurred in the school lunch and school breakfast programs.

(i) [12–33] Facilities, equipment, and personnel provided to a school food authority for a program authorized under this Act or the Child Nutrition Act of 1966 [12–34] [(42 U.S.C. 1771 et seq.)] may be used, as determined by a local educational agency, to support a nonprofit nutrition program for the elderly, including a program funded under the Older Americans Act of 1965 [12–35] [(42 U.S.C. 3001 et seq.)].

(j) [12–36](1) Except as provided in paragraph (2), the Secretary may provide reimbursements for final claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, family day care homes, institutions, and service institutions only if—

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instruments (including any item described in section 17(o)(1)(A) of that Act issued in lieu of a food instrument under this section), funds, assets, or property that have a value of $100 or more and that are the subject of a grant or other form of assistance under this section, to forfeit to the United States certain property.

[12–29] Section 306(b)(3) of P.L. 101–147, 103 Stat. 915, Nov. 10, 1989, amended subsection (g) by striking "his" and inserting "personal".

[12–30] Section 104(b) of P.L. 105–336, 112 Stat. 3147, Oct. 31, 1998, amended this subsection by striking "$10,000" and inserting "$25,000"..

[12–31] Section 3803(c)(2)(C)(xiii) of title 31, United States Code, provides administrative remedies for false claims and statements relating to benefits under this Act.

The first sentence of section 16(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1785(b)) permits the Secretary of Agriculture to determine, settle, and adjust any claim arising under such Act and the Richard B. Russell National School Lunch Act.

[12–32] This subsection added by section 6(a)(1) of P.L. 95–627, 92 Stat. 3620, Nov. 10, 1978, and amended by section 819 of P.L. 97–35, 95 Stat. 533, Aug. 13, 1981, to eliminate the requirement that reimbursement to school food authorities not exceed the cost of operating the lunch and breakfast programs.

[12–33] This subsection added by section 326 of P.L. 99–500, 100 Stat. 1783–361, Oct. 18, 1986. Section 326 of P.L. 99–591, 100 Stat. 3341–365, Oct. 30, 1986, and section 4206 of P.L. 99–661, 100 Stat. 4073, Nov. 14, 1986, made the same addition.

Section 306(a)(2) of P.L. 101–147, 103 Stat. 914, Nov. 10, 1989, eliminated the duplicate provisions by providing that section 12(i) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(i)), as similarly added first by section 326 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99–500 (100 Stat. 1783–361), later by section 326 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99–591 (100 Stat. 3341–365), and later by section 4206 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661), is amended to read as if only the latest amendment was enacted.

[12–34] Section 306(b)(4)(A) of P.L. 101–147, 103 Stat. 915, Nov. 10, 1989, amended subsection (i) by striking "(42 U.S.C. 1771 et seq.)".

[12–35] Section 306(b)(4)(B) of P.L. 101–147, 103 Stat. 915, Nov. 10, 1989, amended subsection (i) by striking "(42 U.S.C. 3001 et seq.)".

[12–36] This subsection added by section 112(b) of P.L. 103–448, 108 Stat. 4708, Nov. 2, 1994.

(A) the claims have been submitted to the State agencies not later than 60 days after the last day of the month for which the reimbursement is claimed; and

(B) the final program operations report for the month is submitted to the Secretary not later than 90 days after the last day of the month.

(2) The Secretary may waive the requirements of paragraph (1) at the discretion of the Secretary.

(k)[12–37](1) Not later than June 1, 1995, the Secretary shall issue final regulations to conform the nutritional requirements of the school lunch and breakfast programs with the guidelines contained in the most recent "Dietary Guidelines for Americans" that is published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341).[12–38] The final regulations shall include—

(A) rules permitting the use of food-based menu systems; and

(B) adjustments to the rule on nutrition objectives for school meals published in the Federal Register on June 10, 1994 (59 Fed. Reg. 30218).

(2) No school food service authority shall be required to implement final regulations issued pursuant to this subsection until the regulations have been final for at least 1 year.

(l)[12–39](1)(A) Except as provided in paragraph (4), the Secretary may waive any requirement under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or any regulation issued under either such Act, for a State or eligible service provider that requests a waiver if—

(i) the Secretary determines that the waiver of the requirement would facilitate the ability of the State or eligible service provider to carry out the purpose of the program;

(ii) the State or eligible service provider has provided notice and information to the public regarding the proposed waiver; and

(iii) the State or eligible service provider demonstrates to the satisfaction of the Secretary that the waiver will not increase the overall cost of the program to the Federal Government, and, if the waiver does increase the overall cost to the Federal Government, the cost will be paid from non-Federal funds.

(B) The notice and information referred to in subparagraph (A)(ii) shall be provided in the same manner in which the State or eligible service provider customarily provides similar notices and information to the public.

(2)(A)[12–40] To request a waiver under paragraph (1), a State or eligible service provider (through the appropriate administering State agency) shall submit an application to the Secretary that—

[12–37] This subsection added by section 112(c) of P.L. 103–448, 108 Stat. 4708, Nov. 2, 1994. Section 705(e)(1) and (2) of P.L. 104–193, 110 Stat. 2290, Aug. 22, 1996, amended this subsection by striking former paragraphs (1), (2), and (5), and by redesignating former paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

[12–38] Section 705(e)(3) of P.L. 104–193, 110 Stat. 2290, Aug. 22, 1996, amended this paragraph by striking "Guidelines" and inserting "guidelines contained in the most recent 'Dietary Guidelines for Americans' that is published under section 301 of the National Nutrition Monitoring and Related Research Act of 1990 (7 U.S.C. 5341)".

[12–39] This subsection added by section 112(d) of P.L. 103–448, 108 Stat. 4709, Nov. 2, 1994.

[12–40] Section 705(f)(1) of P.L. 104–193, 110 Stat. 2290, Aug. 22, 1996, amended this subparagraph in clause (iii), by adding "and" at the end of clause (iii), by striking the semi-

(i) identifies the statutory or regulatory requirements that are requested to be waived;

(ii) in the case of a State requesting a waiver, describes actions, if any, that the State has undertaken to remove State statutory or regulatory barriers;

(iii) describes the goal of the waiver to improve services under the program and the expected outcomes if the waiver is granted; and

(iv) includes a description of the impediments to the efficient operation and administration of the program.

(B) An application described in subparagraph (A) shall be developed by the State or eligible service provider and shall be submitted to the Secretary by the State.

(3) [12–41] The Secretary shall act promptly on a waiver request contained in an application submitted under paragraph (2) and shall either grant or deny the request. The Secretary shall state in writing the reasons for granting or denying the request.

(4) [12–42] The Secretary may not grant a waiver under this subsection that increases Federal costs or that relates [12–43] to—

(A) the nutritional content of meals served;

(B) Federal reimbursement rates;

(C) the provision of free and reduced price meals;

(D) limits on the price charged for a reduced price meal;

(E) maintenance of effort;

(F) equitable participation of children in private schools;

(G) distribution of funds to State and local school food service authorities and service institutions participating in a program under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(H) the disclosure of information relating to students receiving free or reduced price meals and other recipients of benefits;

(I) prohibiting the operation of a profit producing program;

(J) the sale of competitive foods;

(K) the commodity distribution program under section 14;

(L) the special supplemental nutrition program authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); or [12–44]

(M) enforcement of any constitutional or statutory right of an individual, including any right under—

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

(ii) section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

(iii) title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.);

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colon at the end of clause (iv) and inserting a period, and by striking former clauses (v) through (vii).

[12–41] Section 705(f)(2) of P.L. 104–193, 110 Stat. 2290, Aug. 22, 1996, amended this paragraph by striking "(A)", and by striking former subparagraphs (B) through (D).

[12–42] Section 705(f)(3)(B) and (C) of P.L. 104–193, 110 Stat. 2291, Aug. 22, 1996, amended this paragraph by striking former subparagraph (D) and by redesignating former subparagraphs (E) through (N) as subparagraphs (D) through (M), respectively.

[12–43] Section 705(f)(3)(A) of P.L. 104–193, 110 Stat. 2291, Aug. 22, 1996, amended this paragraph by striking "of any requirement relating" and inserting "that increases Federal costs or that relates".

[12–44] Section 705(f)(3)(D) of P.L. 104–193, 110 Stat. 2291, Aug. 22, 1996, amended this subparagraph by striking "and" at the end and inserting "or".

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

(v) the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.); and

(vi) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(5) The Secretary shall periodically review the performance of any State or eligible service provider for which the Secretary has granted a waiver under this subsection and shall terminate the waiver if the performance of the State or service provider has been inadequate to justify a continuation of the waiver. The Secretary shall terminate the waiver if, after periodic review, the Secretary determines that the waiver has resulted in an increase in the overall cost of the program to the Federal Government and the increase has not been paid for in accordance with paragraph (1)(A)(iii).

(6) [12–45] The Secretary shall annually submit to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report—

(A) summarizing the use of waivers by the State and eligible service providers;

(B) describing whether the waivers resulted in improved services to children;

(C) describing the impact of the waivers on providing nutritional meals to participants; and

(D) describing how the waivers reduced the quantity of paperwork necessary to administer the program.

(7) As used in this subsection, the term "eligible service provider" means—

(A) a local school food service authority;

(B) a service institution or private nonprofit organization described in section 13; or

(C) a family or group day care home sponsoring organization described in section 17.

(m) [12–46](1) The Secretary, acting through the Administrator of the Food and Nutrition Service or through the Extension Service, shall award on an annual basis grants to a private nonprofit organization or educational institution in each of 3 States to create, operate, and demonstrate food and nutrition projects that are fully integrated with elementary school curricula.

(2) Each organization or institution referred to in paragraph (1) shall be selected by the Secretary and shall—

(A) assist local schools and educators in offering food and nutrition education that integrates math, science, and verbal skills in the elementary grades;

(B) assist local schools and educators in teaching agricultural practices through practical applications, like gardening;

(C) create community service learning opportunities or educational programs;

(D) be experienced in assisting in the creation of curriculum-based models in elementary schools;

(E) be sponsored by an organization or institution, or be an organization or institution, that provides information, or con-

[12–45] Section 705(f)(4) of P.L. 104–193, 110 Stat. 2291, Aug. 22, 1996, amended this paragraph by striking "(A)(i)" and all that follows through "(B)" and by redesignating former clauses (i) through (iv) as subparagraphs (A) through (D), respectively.

[12–46] This subsection added by section 113 of P.L. 103–448, 108 Stat. 4712, Nov. 2, 1994.

ducts other educational efforts, concerning the success and productivity of American agriculture and the importance of the free enterprise system to the quality of life in the United States; and

(F) be able to provide model curricula, examples, advice, and guidance to schools, community groups, States, and local organizations regarding means of carrying out similar projects.

(3) Subject to the availability of appropriations to carry out this subsection, the Secretary shall make grants to each of the 3 private organizations or institutions selected under this subsection in amounts of not less than $100,000, nor more than $200,000, for each of fiscal years 1995 through 2003. [12–47]

(4) The Secretary shall establish fair and reasonable auditing procedures regarding the expenditure of funds under this subsection.

(5) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 1995 through 2003. [12–48]

(n) [12–49] BUY AMERICAN.—

(1) DEFINITION OF DOMESTIC COMMODITY OR PRODUCT.—In this subsection, the term "domestic commodity or product" means—

(A) an agricultural commodity that is produced in the United States; and

(B) a food product that is processed in the United States substantially using agricultural commodities that are produced in the United States.

(2) REQUIREMENT.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall require that a school food authority purchase, to the maximum extent practicable, domestic commodities or products.

(B) LIMITATIONS.—Subparagraph (A) shall apply only to—

(i) a school food authority located in the contiguous United States; and

(ii) a purchase of a domestic commodity or product for the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(3) APPLICABILITY TO HAWAII.—Paragraph (2)(A) shall apply to a school food authority in Hawaii with respect to domestic commodities or products that are produced in Hawaii in sufficient quantities to meet the needs of meals provided under the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(4) [12–49A] APPLICABILITY TO PUERTO RICO.—Paragraph (2)(A) shall apply to a school food authority in the Commonwealth of Puerto Rico with respect to domestic commodities or products that are produced in the Commonwealth of Puerto Rico in suffi-

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[12–47] Section 104(c) of P.L. 105–336, 112 Stat. 3147, Oct. 31, 1998, amended this subsection by striking "1998" each place it appears and inserting "2003".

[12–48] See note 12–47.

[12–49] This subsection added by section 104(d) of P.L. 105–336, 112 Stat. 3147, Oct. 31, 1998.

[12–49A] Para. (4) added by sec. 4304 of P.L. 107–171, 116 Stat. 331, May 13, 2002.

cient quantities to meet the needs of meals provided under the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).

(o)[12–50] PROCUREMENT CONTRACTS.—In acquiring a good or service for programs under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) (other than section 17 of that Act (42 U.S.C. 1786)), a State, State agency, school, or school food authority may enter into a contract with a person that has provided specification information to the State, State agency, school, or school food authority for use in developing contract specifications for acquiring such good or service.

(p)[12–51] GRANT FOR DEMONSTRATION PROJECT.—

(1) USE OF FUNDS FOR WIC DEMONSTRATION PROJECT.—

(A) IN GENERAL.—The Secretary shall make grants of funds under this subsection to a State—

(i) for purposes that include carrying out the demonstration project under section 17(r) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(r)); and

(ii) for the purpose described in clause (i), in amounts not to exceed $10,000 for each fiscal year for each site in the State.

(B) APPORTIONMENT.—A State that receives a grant under subparagraph (A) shall apportion the funds received to ensure that each site in the State receives not more than $10,000 for any fiscal year.

(2) EVALUATIONS OF DEMONSTRATION PROJECT.—The Secretary shall conduct an evaluation of the demonstration project and grant program for identification and enrollment efforts funded under this subsection that include a determination of—

(A) the number of children enrolled as a result of the enactment of this subsection;

(B) the income levels of the families of enrolled children;

(C) the cost of identification and enrollment assistance services provided under the project or grant program;

(D) the effect on the caseloads of local agencies that carry out the special supplemental nutrition program for woman, infants, and children established under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786); and

(E) such other factors as the Secretary determines to be appropriate.

(3) FUNDING.—

(A) IN GENERAL.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary to carry out this subsection $1,000,000 for the period of fiscal years 2001 through 2004, to remain available until expended but not later than September 30, 2004.

(B) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive the funds and shall accept the funds provided under subparagraph (A), without further appropriation.

[12–50] This subsection added by section 104(e) of P.L. 105–336, 112 Stat. 3148, Oct. 31, 1998.

[12–51] Effective October 1, 2000, subsection (p) added by section 242(b)(3) of P.L. 106–224, 114 Stat. 412, June 20, 2000.

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 13.[13–1] [42 U.S.C. 1761] (a)(1) The Secretary is authorized to carry out a program to assist States, through grants-in-aid and other means, to initiate and maintain[13–2] nonprofit food service programs for children in service institutions. For purposes of this section, (A) "program" means the summer food service program for children authorized by this section; (B) "service institutions" means public or private nonprofit school food authorities, local, municipal, or county governments,[13–3] public or private nonprofit higher education institutions participating in the National Youth Sports Program,[13–4] and residential public or private nonprofit summer camps, that develop special summer or school vacation programs providing food service similar to that made available to children during the school year under the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)][13–5]; (C) "areas in which poor economic conditions exist" means areas in which at least 50 percent[13–6] of the children are eligible for free or reduced price school meals under this Act and the Child Nutrition Act of 1966, as determined by information provided from departments of welfare, zoning commissions, census tracts, by the number of free and reduced price lunches or breakfasts served to children attending public and nonprofit private schools located in the area of program food service sites, or from other appropriate sources, including statements of eligibility based upon income for children enrolled in the program; (D) "children" means individuals who are eighteen years of age and under, and individuals who are older than eighteen who are (i) de-

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13–1 Original section establishing the Special Food Service Program for Children added by section 3 of P.L. 90–302, 82 Stat. 117, May 8, 1968. Additional amendments were made by section 6 (c) and (d) of P.L. 91–248, 84 Stat. 210, May 14, 1970; section 7 of P.L. 92–32, 85 Stat. 86, June 30, 1971; sections 1 and 2 of P.L. 92–433, 86 Stat. 724, Sept. 26, 1972; and P.L. 94–20, 89 Stat. 82, May 2, 1975. Section 13 of P.L. 94–105, 89 Stat. 515, Oct. 7, 1975, replaced original section with a new section establishing the Summer Food Service Program for Children. This section completely revised by section 2 of P.L. 95–166, 91 Stat. 1325, Nov. 10, 1977.

Section 19(d)(1)(C) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(d)(1)(C)) permits the Secretary to formulate and carry out a nutrition information and education program, through a system of grants to State educational agencies, to provide for the conduct of nutrition education activities in institutions offering summer food service programs under this section.

Section 114(h) of P.L. 103–448, 108 Stat. 4713, Nov. 2, 1994, requires the Secretary to (1) not later than 180 days after the date of enactment of P.L. 103–448, in consultation with the heads of other Federal agencies, identify sources of Federal funds that may be available from other Federal agencies for service institutions under the summer food service program for children established under this section to carry out all-day educational and recreational activities for children at feeding sites under the program, and (2) notify through State agencies, as determined appropriate by the Secretary, the service institutions of the sources.

13–2 Section 706(a)(1)(A) of P.L. 104–193, 110 Stat. 2291, Aug. 22, 1996, amended this sentence by striking "initiate, maintain, and expand" and inserting "initiate and maintain".

13–3 Section 809 of P.L. 97–35, 95 Stat. 527, Aug. 13, 1981, replaced the words "nonresidential public or private nonprofit institutions" with "public or private nonprofit school food authorities, local, municipal, or county governments,".

13–4 Section 213(a) of P.L. 100–435, 102 Stat. 1658, Sept. 19, 1988, added the words ", public or private nonprofit higher education institutions participating in the National Youth Sports Program,".

13–5 Section 13(3)(A) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237; 7 U.S.C. 612c note) defines "recipient agency", for purposes of such Act, to include a school authorized under the Richard B. Russell National School Lunch Act to operate summer food service programs and to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase.

13–6 Section 809 of P.L. 97–35, 95 Stat. 527, Aug. 13, 1981, substituted "50 percent" for "33⅓ percent".

termined by a State educational agency or a local public educational agency of a State, in accordance with regulations prescribed by the Secretary, to have a disability, [13–7] and (ii) participating in a public or nonprofit private [13–8] school program established for individuals who have a disability; [13–9] and (E) "State" means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, [13–10] and the Northern Mariana Islands.

(2) To the maximum extent feasible, consistent with the purposes of this section, any food service under the program shall use meals prepared at the facilities of the service institution or at the food service facilities of public and nonprofit private schools. The Secretary shall assist States in the development of information and technical assistance to encourage increased service of meals prepared at the facilities of service institutions and at public and nonprofit private schools.

(3) Eligible service institutions entitled to participate in the program shall be limited to those that—

(A) demonstrate adequate administrative and financial responsibility to manage an effective food service;

(B) have not been seriously deficient in operating under the program;

(C) [13–11](i) conduct a regularly scheduled food service for children from areas in which poor economic conditions exist; *or*

(ii) qualify as camps; and

(D) provide an ongoing year-round service to the community to be served under the program (except that an otherwise eligible service institution shall not be disqualified for failure to meet this requirement for ongoing year-round service if the State determines that its disqualification would result in an area in which poor economic conditions exist not being served or in a significant number of needy children not having reasonable access to a summer food service program).

(4) [13–12] The following order of priority shall be used by the State in determining participation where more than one eligible service institution proposes to serve the same area:

(A) Local schools.

(B) All other service institutions and private nonprofit organizations eligible under paragraph (7) that have demonstrated successful program performance in a prior year.

(C) New public institutions.

[13–7] Section 107(j)(3)(B)(i) of P.L. 105–336, 112 Stat. 3153, Oct. 31, 1998, amended this clause by striking "to be mentally or physically handicapped" and inserting "to have a disability".

[13–8] The phrase "or nonprofit private" added by section 10(d)(2) of P.L. 95–627, 92 Stat. 3624, Nov. 10, 1978.

[13–9] Section 107(j)(3)(B)(ii) of P.L. 105–336, 112 Stat. 3153, Oct. 31, 1998, amended this clause by striking "the mentally or physically handicapped" and inserting "individuals who have a disability".

[13–10] Section 706(a)(1)(B) of P.L. 104–193, 110 Stat. 2291, Aug. 22, 1996, amended this subparagraph by striking "the Trust Territory of the Pacific Islands,".

[13–11] This paragraph amended in its entirety by section 102(a)(1)(A) of P.L. 101–147, 103 Stat. 879, Nov. 10, 1989. Effective July 1, 1999, section 107(j)(2)(A) of P.L. 105–336, 112 Stat. 3152, Oct. 31, 1998, amended this paragraph by inserting "or" at the end of clause (i), by striking clause (ii), and by redesignating clause (iii) as clause (ii).

[13–12] Section 114(a) of P.L. 103–448, 108 Stat. 4712, Nov. 2, 1994, amended this paragraph by striking former subparagraphs (A) through (F) and inserting new subparagraphs (A) through (D). Former subparagraph (F) was added by section 102(a)(1)(B) of P.L. 101–147, 103 Stat. 879, Nov. 10, 1989.

(D) New private nonprofit organizations eligible under paragraph (7).

The Secretary and the States, in carrying out their respective functions under this section, shall actively seek eligible service institutions located in rural areas, for the purpose of assisting such service institutions in applying to participate in the program.

(5) Camps that satisfy all other eligibility requirements of this section shall receive reimbursement only for meals served to children who meet the eligibility requirements for free or reduced price meals, as determined under this Act and the Child Nutrition Act of 1966 **[**(42 U.S.C. 1771 et seq.)**]**.

(6) [13–13] Service institutions that are local, municipal, or county governments shall be eligible for reimbursement for meals served in programs under this section only if such programs are operated directly by such governments.

(7) [13–14](A) [13–15] Private [13–16] nonprofit organizations, as defined in subparagraph (B) (other than organizations eligible under paragraph (1)), shall be eligible for the program under the same terms and conditions as other service institutions.

(B) As used in this paragraph, the term "private nonprofit organizations" means those organizations that—

(i) [13–17] operate—

(I) not more than 25 sites, with not more than 300 children being served at any one site; or

(II) with a waiver granted by the State agency under standards developed by the Secretary, with not more than 500 children being served at any one site;

(ii) [13–18] exercise full control and authority over the operation of the program at all sites under their sponsorship;

(iii) [13–19] provide ongoing year-around activities for children or families [13–20];

(iv) [13–21] demonstrate that such organizations have adequate management and the fiscal capacity to operate a program under this section; and

(v) [13–22] meet applicable State and local health, safety, and sanitation standards.

(b) [13–23] SERVICE INSTITUTIONS.—

[13–13] This paragraph added by section 809 of P.L. 97–35, 95 Stat. 527, Aug. 13, 1981.

[13–14] This paragraph added by section 213(b) of P.L. 100–435, 102 Stat. 1658, 1659, Sept. 19, 1988. Former subparagraph (C) of this paragraph was added by section 102(a)(1)(C)(iii) of P.L. 101–147, 103 Stat. 879, Nov. 10, 1989, and repealed by section 114(b) of P.L. 103–448, 108 Stat. 4712, Nov. 2, 1994.

[13–15] This subparagraph amended to read as provided above by section 102(a)(1)(C)(i) of P.L. 101–147, 103 Stat. 879, Nov. 10, 1989.

[13–16] Section 706(a)(2) of P.L. 104–193, 110 Stat. 2291, Aug. 22, 1996, amended this subparagraph by striking "Except as provided in subparagraph (C), private" and inserting "Private".

[13–17] This clause amended to read as provided above by section 105(a) of P.L. 105–336, 112 Stat. 3148, Oct. 31, 1998. This clause earlier amended in its entirety by section 102(a)(1)(C)(ii)(I) of P.L. 101–147, 103 Stat. 879, Nov. 10, 1989.

[13–18] Section 105(b)(1) of P.L. 105–336, 112 Stat. 3148, Oct. 31, 1998, amended this subparagraph by striking former clauses (ii) and (iii) and by redesignating former clauses (iv) through (vii) as clauses (ii) through (v), respectively. Previously, section 102(a)(1)(C)(ii)(II) of P.L. 101–147, 103 Stat. 879, Nov. 10, 1989, amended former clause (ii).

[13–19] See note 13–18.

[13–20] The phrase "or families" was added by section 102(a)(1)(C)(ii)(III) of P.L. 101–147, 103 Stat. 879, Nov. 10, 1989.

[13–21] See note 13–18.

[13–22] See note 13–18.

[13–23] Effective January 1, 1997, section 706(b) of P.L. 104–193, 110 Stat. 2291, Aug. 22, 1996, amended this subsection by striking "(b)(1)" and all that follows through the end

Continued

(1) PAYMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, payments to service institutions shall equal the full cost of food service operations (which cost shall include the costs of obtaining, preparing, and serving food, but shall not include administrative costs).

(B) MAXIMUM AMOUNTS.—Subject to subparagraph (C), payments to any institution under subparagraph (A) shall not exceed—

(i) $1.97 for each lunch and supper served;

(ii) $1.13 for each breakfast served; and

(iii) 46 cents for each meal supplement served.

(C) ADJUSTMENTS.—Amounts specified in subparagraph (B) shall be adjusted on January 1, 1997, and each January 1 thereafter, to the nearest lower cent increment to reflect changes for the 12-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Each adjustment shall be based on the unrounded adjustment for the prior 12-month period.

(2) [13–24] Any service institution may only serve lunch and either breakfast or a meal supplement during each day of operation, except that any service institution that is a camp or that serves meals primarily to migrant children may serve up to 3 meals, or 2 meals and 1 supplement, [13–25] during each day of operation, if (A) the service institution has the administrative capability and the food preparation and food holding capabilities (where applicable) to serve more than one meal per day, and (B) the service period of different meals does not coincide or overlap. [13–26]

(3) Every service institution, when applying for participation in the program, shall submit a complete budget for administrative costs related to the program, which shall be subject to approval by the State. Payment to service institutions for administrative costs shall equal the full amount of State approved administrative costs incurred, except that such payment to service institutions may not exceed the maximum allowable levels determined by the Secretary pursuant to the study prescribed in paragraph (4) of this subsection.

(4)(A) The Secretary shall conduct a study of the food service operations carried out under the program. Such study shall include, but shall not be limited to—

(i) an evaluation of meal quality as related to costs; and

(ii) a determination whether adjustments in the maximum reimbursement levels for food service operation costs prescribed in paragraph (1) of this subsection should be made, including whether different reimbursement levels should be established for self-prepared meals and vendored meals and which site-re-

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of paragraph (1) and inserting "(b)" and all that follows through the end of paragraph (1). In the previous text, the phrase "for All Urban Consumers" was added by section 5(d) of P.L. 95–627, 92 Stat. 3620, Nov. 10, 1978, effective July 1, 1979.

[13–24] This paragraph amended by section 206 of P.L. 96–499, 94 Stat. 2601, Dec. 5, 1980, to limit meal service to a lunch and either breakfast or a meal supplement, except in camps or institutions serving primarily migrants.

[13–25] Section 706(c)(1) of P.L. 104–193, 110 Stat. 2292, Aug. 22, 1996, amended this sentence by striking "four meals" and inserting "3 meals, or 2 meals and 1 supplement,".

[13–26] Section 706(c)(2) of P.L. 104–193, 110 Stat. 2292, Aug. 22, 1996, struck the second sentence of this paragraph.

lated costs, if any, should be considered as part of administrative costs.

(B) The Secretary shall also study the administrative costs of service institutions participating in the program and shall thereafter prescribe maximum allowable levels for administrative payments that reflect the costs of such service institutions, taking into account the number of sites and children served, and such other factors as the Secretary determines appropriate to further the goals of efficient and effective administration of the program.

(C) The Secretary shall report the results of such studies to Congress not later than December 1, 1977.

(c) [13–27](1) Payments shall be made to service institutions only for meals served during the months of May through September, except in the case of service institutions that operate food service programs for children on school vacation at any time under a continuous school calendar or that provide meal service at non-school sites to children who are not in school for a period during the months of October through April due to a natural disaster, building repair, court order, or similar cause. [13–28]

(2) [13–29] Children participating in National Youth Sports Programs operated by higher education institutions [13–30] shall be eligible to participate in the program under this paragraph on showing residence in areas in which poor economic conditions exist or on the basis of income eligibility statements for children enrolled in the program. [13–31]

(d) Not later than April 15, May 15, and July 1 [13–32] of each year, the Secretary shall forward to each State a letter of credit (advance program payment) that shall be available to each State for the payment of meals to be served in the month for which the letter of credit is issued. The amount of the advance program payment shall be an amount which the State demonstrates, to the satisfaction of the Secretary, to be necessary for advance program payments to service institutions in accordance with subsection (e) of this section. The Secretary shall also forward such advance program payments, by the first day of the month prior to the month in which the program will be conducted, to States that operate the program in months other than May through September. The Secretary shall forward any remaining payments due pursuant to subsection (b) of this section not later than sixty days following receipt of valid claims therefor.

(e)(1) Not later than June 1, July 15, and August 15 of each year, or, in the case of service institutions that operate under a continuous school calendar, the first day of each month of operation, the State shall forward advance program payments to each service

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[13–27] Section 102(a)(2) of P.L. 101–147, 103 Stat. 880, Nov. 10, 1989, inserted "(1)" after "(c)" and added paragraph (2).

[13–28] Section 114(c) of P.L. 103–448, 108 Stat. 4712, Nov. 2, 1994, amended this subsection by inserting "or that" and all that follows through "similar cause".

[13–29] Section 706(d)(1) and (2) of P.L. 104–193, 110 Stat. 2292, Aug. 22, 1996, amended this paragraph by striking former subparagraphs (A), (C), (D), and (E), and by striking "(B)".

[13–30] Section 706(d)(3) of P.L. 104–193, 110 Stat. 2292, Aug. 22, 1996, amended this paragraph by striking ", and such higher education institutions,".

[13–31] Section 706(d)(4) of P.L. 104–193, 110 Stat. 2292, Aug. 22, 1996, amended this paragraph by striking "without application" and inserting "on showing residence in areas in which poor economic conditions exist or on the basis of income eligibility statements for children enrolled in the program".

[13–32] Section 307(1) of P.L. 101–147, 103 Stat. 915, Nov. 10, 1989, amended subsection (d) by striking "July 1," and inserting "July 1".

institution. The [13–33] State shall not release the second month's advance program payment to any service institution (excluding a school) [13–34] that has not certified that it has held training sessions for its own personnel and the site personnel with regard to program duties and responsibilities. No [13–35] advance program payment may be made for any month in which the service institution will operate under the program for less than ten days.

(2) The amount of the advance program payment for any month in the case of any service institution shall be an amount equal to (A) the total program payment for meals served by such service institution in the same calendar month of the preceding calendar year, (B) 50 percent of the amount established by the State to be needed by such service institution for meals if such service institution contracts with a food service management company, or (C) 65 percent of the amount established by the State to be needed by such service institution for meals if such service institution prepares its own meals, whichever amount is greatest: *Provided,* That the advance program payment may not exceed the total amount estimated by the State to be needed by such service institution for meals to be served in the month for which such advance program payment is made or $40,000, whichever is less, except that a State may make a larger advance program payment to such service institution where the State determines that such larger payment is necessary for the operation of the program by such service institution and sufficient administrative and management capability to justify a larger payment is demonstrated. The State shall forward any remaining payment due a service institution not later than seventy-five days following receipt of valid claims. If the State has reason to believe that a service institution will not be able to submit a valid claim for reimbursement covering the period for which an advance program payment has been made, the subsequent month's advance program payment shall be withheld until such time as the State has received a valid claim. Program payments advanced to service institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance program payment.

(f) [13–36] (1) Service institutions receiving funds under this section shall serve meals consisting of a combination of foods and meeting minimum nutritional standards prescribed by the Secretary on the basis of tested nutritional research.

(2) [13–37] The Secretary shall provide technical assistance to service institutions and private nonprofit organizations participating in the program to assist the institutions and organizations in complying with the nutritional requirements prescribed by the Secretary pursuant to this subsection.

[13–33] Section 706(e)(1) of P.L. 104–193, 110 Stat. 2292, Aug. 22, 1996, amended this paragraph by striking "institution: *Provided,* That (A) the" and inserting "institution. The".

[13–34] Section 706(e)(2) of P.L. 104–193, 110 Stat. 2292, Aug. 22, 1996, amended this paragraph by inserting "(excluding a school)" after "any service institution".

[13–35] Section 706(e)(3) of P.L. 104–193, 110 Stat. 2292, Aug. 22, 1996, amended this paragraph by striking "responsibilities, and (B) no" and inserting "responsibilities. No".

[13–36] Section 706(f)(1), (2), and (5) of P.L. 104–193, 110 Stat. 2292, Aug. 22, 1996, amended this subsection by redesignating the first through seventh sentences as paragraphs (1) through (7), respectively, by striking paragraph (3), and by redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively.

[13–37] See note 13–36. This sentence and the former preceding sentence added by section 105(b)(1) of P.L. 103–448, 108 Stat. 4702, Nov. 2, 1994.

(3) [13–38] Meals described in paragraph (1) shall be served without cost to children attending service institutions approved for operation under this section, except that, in the case of camps, charges may be made for meals served to children other than those who meet the eligibility requirements for free or reduced price meals in accordance with subsection (a)(5) of this section.

(4) [13–39] To assure meal quality, States shall, with the assistance of the Secretary, prescribe model meal specifications and model food quality standards, and ensure that all service institutions contracting for the preparation of meals with food service management companies include in their contracts menu cycles, local food safety standards, and food quality standards approved by the State.

(5) [13–40] Such contracts shall require (A) periodic inspections, by an independent agency or the local health department for the locality in which the meals are served, of meals prepared in accordance with the contract in order to determine bacteria levels present in such meals, and (B) conformance with standards set by local health authorities. [13–41]

(6) [13–42] Such inspections and any testing resulting therefrom shall be in accordance with the practices employed by such local health authority.

(7) [13–43] OFFER VERSUS SERVE.—A school food authority participating as a service institution may permit a child [13–44] to refuse one or more items of a meal that the child does not intend to consume, under rules that the school uses for school meals programs. A refusal of an offered food item shall not affect the amount of payments made under this section to a school for the meal.

(g) The Secretary shall publish proposed regulations relating to the implementation of the program by November 1 of each fiscal year, final regulations by January 1 of each fiscal year, and guidelines, applications and handbooks by February 1 of each fiscal year. [13–45] In order to improve program planning, the Secretary may provide that service institutions be paid as startup costs not to exceed 20 percent of the administrative funds provided for in the administrative budget approved by the State under subsection (b)(3) of this section. Any payments made for startup costs shall be subtracted from amounts otherwise payable for administrative costs subsequently made to service institutions under subsection (b)(3) of this section.

[13–38] See note 13–36. Section 105(b)(2) of P.L. 103–448, 108 Stat. 4702, Nov. 2, 1994, amended this sentence by striking "Such meals" and inserting "Meals described in the first sentence". Section 706(f)(3) of P.L. 104–193, 110 Stat. 2292, Aug. 22, 1996, amended this sentence by striking "the first sentence" and inserting "paragraph (1)".

[13–39] See note 13–36. Section 307(2) of P.L. 101–147, 103 Stat. 915, Nov. 10, 1989, amended this sentence by striking "prescribed" and inserting "prescribe".

[13–40] See note 13–36.

[13–41] Section 706(f)(4) of P.L. 104–193, 110 Stat. 2292, Aug. 22, 1996, amended this paragraph by striking "that bacteria levels" and all that follows through the period at the end and inserting "conformance with standards set by local health authorities.".

[13–42] See note 13–36.

[13–43] Paragraph (7) added by section 706(g) of P.L. 104–193, 110 Stat. 2292, Aug. 22, 1996.

[13–44] Section 105(c) of P.L. 105–336, 112 Stat. 3149, Oct. 31, 1998, amended this paragraph by striking "attending a site on school premises operated directly by the authority".

[13–45] Section 307(3) of P.L. 101–147, 103 Stat. 915, Nov. 10, 1989, amended the first sentence of subsection (g) by striking an obsolete proviso relating to printing certain regulations for fiscal year 1978.

(h) Each service institution shall, insofar as practicable, use in its food service under the program foods designated from time to time by the Secretary as being in abundance. The Secretary is authorized to donate to States, for distribution to service institutions, food available under section 416 of the Agricultural Act of 1949 [13–46] [(7 U.S.C. 1431)], or purchased under section 32 of the Act of August 24, 1935 [13–47] [(7 U.S.C. 612c)] or section 709 of the Food and Agriculture Act of 1965 [13–48] [(7 U.S.C. 1446a–1)]. Donated foods may be distributed only to service institutions that can use commodities efficiently and effectively, as determined by the Secretary.

[(i) Repealed [13–49]]

(j) Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(k)(1) [13–50] The Secretary shall pay to each State for its administrative costs incurred under this section in any fiscal year an amount equal to (A) 20 percent of the first $50,000 in funds distributed to that State for the program in the preceding fiscal year; (B) 10 percent of the next $100,000 distributed to that State for the program in the preceding fiscal year; (C) 5 percent of the next $250,000 in funds distributed to that State for the program in the preceding fiscal year, and (D) 2½ percent of any remaining funds distributed to that State for the program in the preceding fiscal year: *Provided,* That such amounts may be adjusted by the Secretary to reflect changes in the size of that State's program since the preceding fiscal year.

(2) The Secretary shall establish standards and effective dates for the proper, efficient, and effective administration of the program by the State. If the Secretary finds that the State has failed without good cause to meet any of the Secretary's standards or has failed without good cause to carry out the approved State management and administration plan under subsection (n) of this section, the Secretary may withhold from the State such funds authorized under this subsection as the Secretary determines to be appropriate.

(3) To provide for adequate nutritional and food quality monitoring, and to further the implementation of the program, an additional amount, not to exceed the lesser of actual costs or 1 percent of program funds, shall be made available by the Secretary to

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[13–46] Section 307(4)(A) of P.L. 101–147, 103 Stat. 915, Nov. 10, 1989, amended subsection (h) by striking "(7 U.S.C. 1431)".

[13–47] Section 307(4)(B) of P.L. 101–147, 103 Stat. 915, Nov. 10, 1989, amended subsection (h) by striking "(7 U.S.C. 612c)".

[13–48] Section 307(4)(C) of P.L. 101–147, 103 Stat. 915, Nov. 10, 1989, amended subsection (h) by striking "(7 U.S.C. 1446a–1)".

[13–49] Section 817(b) of P.L. 97–35, 95 Stat. 532, Aug. 13, 1981, eliminated subsection (i) concerning the Secretary's authority to directly administer the program.

[13–50] Section 7(b) of P.L. 95–627, 92 Stat. 3622, Nov. 10, 1978, substituted "$100,000" for "$50,000" in clause (B), "$250,000" for "$100,000" in clause (C), and "2½ percent" for "2 percent" in clause (D).

Section 7(a)(6) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(6)) provides that funds available to a State under this section 7(a) of that Act and under section 13(k)(1) of this Act may be used by the State for the costs of administration of the programs authorized under this Act (except for the programs authorized under sections 17 and 21 of the Child Nutrition Act of 1966) and this Act without regard to the basis on which the funds were earned and allocated.

Section 7(a)(9)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(9)(A)) permits the Secretary to withold from a State funds allocated to a State under this paragraph if the Secretary determines that the administration of any program by a State under such Act (other than section 17 of such Act) or under this Act is seriously deficient and the State fails to correct the deficiency within a specified period of time.

States to pay for State or local health department inspections, and to reinspect facilities and deliveries to test meal quality.

(l)(1) Service institutions [13–51] may contract on a competitive basis with food service management companies [13–52] for the furnishing of meals or management of the entire food service under the program, except that a food service management company entering into a contract with a service institution under this section may not subcontract with a single company for the total meal, with or without milk, or for the assembly of the meal. The Secretary shall prescribe additional conditions and limitations governing assignment of all or any part of a contract entered into by a food service management company under this section. Any food service management company shall, in its bid, provide the service institution information as to its meal capacity. [13–53]

(2) Each State may [13–54] provide for the registration of food service management companies. [13–55]

(3) [13–56] In accordance with regulations issued by the Secretary, positive efforts shall be made by service institutions to use small businesses and minority-owned businesses as sources of supplies and services. Such efforts shall afford those sources the maximum feasible opportunity to compete for contracts using program funds.

(4) [13–57] Each State, with the assistance of the Secretary, shall establish a standard form of contract for use by service institutions and food service management companies. The Secretary shall prescribe requirements governing bid and contract procedures for acquisition of the services of food service management companies, including, but not limited to, bonding requirements (which may provide exemptions applicable to contracts of $100,000 or less), procedures for review of contracts by States, and safeguards to prevent collusive bidding activities between service institutions and food service management companies.

(m) States and service institutions participating in programs under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations issued hereunder. Such accounts and records shall be available at any reasonable time [13–58] for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

[13–51] The parenthetical phrase "(other than private nonprofit organizations eligible under subsection (a)(7))" was added by section 102(a)(3) of P.L. 101–147, 103 Stat. 881, Nov. 10, 1989, and struck by section 105(b)(2)(A)(i)(I) of P.L. 105–336, 112 Stat. 3148, Oct. 31, 1998.

[13–52] Section 105(b)(2)(A)(i)(II) of P.L. 105–336, 112 Stat. 3148, Oct. 31, 1998, amended this sentence by striking "only with food service management companies registered with the State in which they operate" and inserting "with food service management companies".

[13–53] Section 105(b)(2)(A)(ii) of P.L. 105–336, 112 Stat. 3148, Oct. 31, 1998, amended this paragraph by striking the former last sentence.

[13–54] Section 105(b)(2)(B)(i) of P.L. 105–336, 112 Stat. 3149, Oct. 31, 1998, amended this sentence by striking "shall" and inserting "may".

[13–55] Section 105(b)(2)(B)(ii) of P.L. 105–336, 112 Stat. 3149, Oct. 31, 1998, amended this paragraph by striking the former second and third sentences.

[13–56] Section 105(b)(2)(C) and (D) of P.L. 105–336, 112 Stat. 3149, Oct. 31, 1998, struck former paragraph (3) and redesignated former paragraphs (4) and (5) as paragraphs (3) and (4), respectively. Previously, section 114(d) of P.L. 103–448, 108 Stat. 4712, Nov. 2, 1994, amended former paragraph (3).

[13–57] See note 13–56.

[13–58] Section 706(h) of P.L. 104–193, 110 Stat. 2292, Aug. 22, 1996, amended this sentence by striking "at all times be available" and inserting "be available at any reasonable time".

(n)[13–59] Each State desiring to participate in the program shall notify the Secretary by January 1 of each year of its intent to administer the program and shall submit for approval by February 15 a management and administration plan for the program for the fiscal year, which shall include, but not be limited to, (1) the State's administrative budget for the fiscal year, and the State's plans to comply with any standards prescribed by the Secretary under subsection (k) of this section; (2) the State's plans for use of program funds and funds from within the State to the maximum extent practicable to reach needy children;[13–60] (3) the State's plans[13–61] for providing technical assistance and training eligible service institutions; (4) the State's plans for monitoring and inspecting service institutions, feeding sites, and food service management companies and for ensuring that such companies do not enter into contracts for more meals than they can provide effectively and efficiently; (5) the State's plan for timely and effective action against program violators; and (6) the State's plan for ensuring fiscal integrity by auditing service institutions not subject to auditing requirements prescribed by the Secretary.

(o)(1) Whoever, in connection with any application, procurement, recordkeeping entry, claim for reimbursement, or other document or statement made in connection with the program, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, or whoever, in connection with the program, knowingly makes an opportunity for any person to defraud the United States, or does or omits to do any act with intent to enable any person to defraud the United States, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(2) Whoever being a partner, officer, director, or managing agent connected in any capacity with any partnership, association, corporation, business, or organization, either public or private, that receives benefits under the program, knowingly or willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery, any benefits provided by this section or any money, funds, assets, or property derived from benefits provided by this section, shall be fined not more than $10,000 or imprisoned for not more than five years, or both (but, if the benefits, money, funds, assets, or property involved is not over $200, then the penalty shall be a

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[13–59] Section 114(e) of P.L. 103–448, 108 Stat. 4712, Nov. 2, 1994, struck former paragraphs (5), (6), (8), and (10), redesignated former paragraphs (7), (9), and (11) as paragraphs (5), (6), and (7), respectively, and made conforming amendments.

Section 706(j)(2) and (4) of P.L. 104–193, 110 Stat. 2293, Aug. 22, 1996, amended this subsection by striking paragraph (3) and by redesignating paragraphs (4) through (7) as paragraphs (3) through (6), respectively.

[13–60] Section 706(j)(1) of P.L. 104–193, 110 Stat. 2293, Aug. 22, 1996, amended this paragraph by erroneously striking ", including the State's methods *of* assessing need" (rather than ", including the State's methods *for* assessing need""). Effective January 1, 1997, section 105(e) of P.L. 105–336, 112 Stat. 3149, Oct. 31, 1998, corrected this error by amending section 706(j)(1) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2293) by striking "methods of assessing" and inserting "methods for assessing". Section 706(i) of P.L. 104–193, 110 Stat. 2292, Aug. 22, 1996, amended this paragraph by striking ", and its plans and schedule for informing service institutions of the availability of the program".

[13–61] Section 706(j)(3) of P.L. 104–193, 110 Stat. 2293, Aug. 22, 1996, amended this paragraph by striking "and schedule".

fine or not more than $1,000 or imprisonment for not more than one year, or both).

(3) If two or more persons conspire or collude to accomplish any act made unlawful under this subsection, and one or more of such persons to any act to effect the object of the conspiracy or collusion, each shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

(p) [13–62](1) In addition to the normal monitoring of organizations receiving assistance under this section, the Secretary shall establish a system under which the Secretary and the States shall monitor the compliance of private nonprofit organizations with the requirements of this section and with regulations issued to implement this section.

(2) [13–63] In the fiscal year 1990 and each succeeding fiscal year, the Secretary may reserve for purposes of carrying out paragraph (1) [13–64] not more than ½ of 1 percent of amounts appropriated for purposes of carrying out this section.

(q) [13–65] For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, 2003, [13–66] there are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this section.

[TEMPORARY EMERGENCY ASSISTANCE TO PROVIDE NUTRITIOUS MEALS TO NEEDY CHILDREN IN SCHOOLS]

[SEC. 13A. [13A–1] [42 U.S.C. 1762]]

[13–62] Section 102(a) (4) and (5) of P.L. 101–147, 103 Stat. 881, Nov. 10, 1989, redesignated former subsection (p) as subsection (r) and inserted new subsections (p) and (q).

Section 706(l) of P.L. 104–193, 110 Stat. 2293, Aug. 22, 1996, amended this section by striking former subsection (p) and by redesignating former subsections (q) and (r) as subsections (p) and (q), respectively.

Section 114(f) of P.L. 103–448, 108 Stat. 4712, Nov. 2, 1994, amended this subsection by striking former paragraph (2), by redesignating former paragraphs (3) through (5) as paragraphs (2) through (4), respectively, and, in paragraph (3) (as so redesignated), by striking "paragraphs (1) and (3)" and inserting "paragraphs (1) and (2)".

Section 706(k) of P.L. 104–193, 110 Stat. 2293, Aug. 22, 1996, amended this subsection by striking former paragraphs (2) and (4) and by redesignating former paragraph (3) as paragraph (2).

[13–63] See note 13–62.

[13–64] Section 706(k)(2) of P.L. 104–193, 110 Stat. 2293, Aug. 22, 1996, amended this paragraph by striking "paragraphs (1) and (2) of this subsection" and inserting "paragraph (1)".

[13–65] See note 13–62.

[13–66] Section 207 of P.L. 96–499, 94 Stat. 2602, Dec. 5, 1980, substituted "September 30, 1984" for "September 30, 1980".

Section 311 of P.L. 99–500, 100 Stat. 1783–360, Oct. 18, 1986, substituted "1989" for "1984". Section 311 of P.L. 99–591, 100 Stat. 3341–363, Oct. 30, 1986, and section 4101 of P.L. 99–661, 100 Stat. 4071, Nov. 14, 1986, made the same substitution.

Section 101(a)(6) of P.L. 101–147, 103 Stat. 881, Nov. 10, 1989, struck "For" and all that follows through "1989," and inserted "For the fiscal year beginning October 1, 1977, and each succeeding fiscal year ending before October 1, 1994,".

Section 114(g) of P.L. 103–448, 108 Stat. 4713, Nov. 2, 1994, struck "1994" and inserted "1998".

Section 105(d) of P.L. 105–336, 112 Stat. 3149, Oct. 31, 1998, struck "1998" and inserted "2003".

[13A–1] This section added by P.L. 91–207, 84 Stat. 51, Mar. 12, 1970, and repealed by section 308 of P.L. 101–147, 103 Stat. 915, Nov. 10, 1989.

COMMODITY DISTRIBUTION PROGRAM

SEC. 14.[14–1] [42 U.S.C. 1762a] (a) Notwithstanding any other provision of law, the Secretary, during the period beginning July 1, 1974, and ending September 30, 2003,[14–2] shall—

(1) use funds available to carry out the provisions of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) which are not expended or needed to carry out such provisions, to purchase (without regard to the provisions of existing law governing the expenditure of public funds) agricultural commodities and their products of the types customarily purchased under such section (which may include domestic seafood commodities and their products),[14–3] for donation to maintain the annually programmed level of assistance for programs carried on under this Act, the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)], and title III[14–4] of the Older Americans Act of 1965 [(42 U.S.C. 3021 et seq.)]; and

(2) if stocks of the Commodity Credit Corporation are not available, use the funds of such Corporation to purchase agricultural commodities and their products of the types customarily available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), for such donation.

(b)[14–5] (1) The Secretary shall maintain and continue to improve the overall nutritional quality of entitlement commodities provided to schools to assist the schools in improving the nutritional content of meals.

(2) The Secretary shall—

(A) require that nutritional content information labels be placed on packages or shipments of entitlement commodities provided to the schools; or

(B) otherwise provide nutritional content information regarding the commodities provided to the schools.

(c)[14–6] The Secretary may use funds appropriated from the general fund of the Treasury to purchase agricultural commodities and their products of the types customarily 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)).[14–7] There

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[14–1] This section added by section 2 of P.L. 93–326, 88 Stat. 286, June 30, 1974.
See note 6–1.

[14–2] Originally expired on June 30, 1975. Extended to Sept. 30, 1977, by section 10 of P.L. 94–105, 89 Stat. 515, Oct. 7, 1975; Sept. 30, 1982, by section 6 of P.L. 95–166, 91 Stat. 1334, Nov. 10, 1977; Sept. 30, 1984, by section 202 of P.L. 96–499, 94 Stat. 2600, Dec. 5, 1980; and September 30, 1989, by section 312 of P.L. 99–500, 100 Stat. 1783–360, Oct. 18, 1986. Section 312 of P.L. 99–591, 100 Stat. 3341–363, Oct. 30, 1986, and section 4102 of P.L. 99–661, 100 Stat. 4071, Nov. 14, 1986, also extended the expiration date to September 30, 1989. Extended to September 30, 1994, by section 103(a) of P.L. 101–147, 103 Stat. 882, Nov. 10, 1989. Extended to September 30, 1998, by section 115(1) of P.L. 103–448, 108 Stat. 4713, Nov. 2, 1994. Extended to September 30, 2003, by section 106 of P.L. 105–336, 112 Stat. 3149, Oct. 31, 1998.

[14–3] Language in parentheses added by section 12(b) of P.L. 95–627, 92 Stat. 3625, Nov. 10, 1978.

[14–4] Section 819 of P.L. 97–35, 95 Stat. 533, Aug. 13, 1981, substituted "title III" for "title VII".

[14–5] This subsection added by section 10 of P.L. 94–105, 89 Stat. 515, Oct. 7, 1975. Section 115(2) of P.L. 103–448, 108 Stat. 4713, Nov. 2, 1994, inserted "(1)" after "(b)" and added paragraphs (2) and (3). Section 707(a) of P.L. 104–193, 110 Stat. 2293, Aug. 22, 1996, amended this subsection by striking paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

[14–6] This subsection added by section 6 of P.L. 95–166, 91 Stat. 1334, Nov. 10, 1977.

[14–7] Section 819 of P.L. 97–35, 95 Stat. 533, Aug. 13, 1981, corrected the citations to the Older Americans Act from the old title VII references to the current title III references.

are hereby authorized to be appropriated such sums as are necessary to carry out the purposes of this subsection.

(d)[14–8] In providing assistance under this Act and the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)] for school lunch and breakfast programs, the Secretary shall establish procedures which will—

(1) ensure that the views of local school districts and private nonprofit schools with respect to the type of commodity assistance needed in schools are fully and accurately reflected in reports to the Secretary by the State with respect to State commodity preferences and that such views are considered by the Secretary in the purchase and distribution of commodities and by the States in the allocation of such commodities among schools within the States;

(2) solicit the views of States with respect to the acceptability of commodities;

(3) ensure that the timing of commodity deliveries to States is consistent with State school year calendars and that such deliveries occur with sufficient advance notice;

(4) provide for systematic review of the costs and benefits of providing commodities of the kind and quantity that are suitable to the needs of local school districts and private nonprofit schools; and

(5) make available technical assistance on the use of commodities available under this Act and the Child Nutrition Act of 1966.

Within eighteen months after the date of the enactment of this subsection [enacted on November 10, 1977], the Secretary shall report to Congress on the impact of procedures established under this subsection, including the nutritional, economic, and administrative benefits of such procedures. In purchasing commodities for programs carried out under this Act and the Child Nutrition Act of 1966, the Secretary shall establish procedures to ensure that contracts for the purchase of such commodities shall not be entered into unless the previous history and current patterns of the contracting party with respect to compliance with applicable meat inspection laws and with other appropriate standards relating to the wholesomeness of food for human consumption are taken into account.

(e)[14–9] Each State agency that receives food assistance payments under this section for any school year shall consult with representatives of schools in the State that participate in the school lunch program with respect to the needs of such schools relating to the manner of selection and distribution of commodity assistance for such program.

(f)[14–10] Commodity only schools shall be eligible to receive donated commodities equal in value to the sum of the national average value of donated foods established under section 6(c)[14–11] of this

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Section 801(a) of P.L. 98–459, 98 Stat. 1792, Oct. 9, 1984, substituted "section 311(b)(1) of such Act (42 U.S.C. 3030(b)(1))" for "section 311(c)(1) of such Act (42 U.S.C. 3030(c)(1))". Citation to 42 U.S.C. 3030(b)(1) probably should be to 42 U.S.C. 3030a(b)(1).

[14–8] This subsection added by section 6 of P.L. 95–166, 91 Stat. 1335, Nov. 10, 1977.

[14–9] This subsection added by section 6 of P.L. 95–166, 91 Stat. 1335, Nov. 10, 1977. Section 707(b) of P.L. 104–193, 110 Stat. 2293, Aug. 22, 1996, amended this subsection in its entirety.

[14–10] This subsection added by section 813 of P.L. 97–35, 95 Stat. 530, Aug. 13, 1981.

[14–11] Section 101(b) of P.L. 105–336, 112 Stat. 3144, Oct. 31, 1998, amended this subsection by striking "section 6(e)" and inserting "section 6(c)".

Act and the national average payment established under section 4 of this Act. Such schools shall be eligible to receive up to 5 cents per meal of such value in cash for processing and handling expenses related to the use of such commodities. Lunches served in such schools shall consist of a combination of foods which meet the minimum nutritional requirements prescribed by the Secretary under section 9(a) of this Act, and shall represent the four basic food groups, including a serving of fluid milk.

(g) [14–12](1) As used in this subsection, the term "eligible school district" has the same meaning given such term in section 1581(a) of the Food Security Act of 1985.

(2) In accordance with the terms and conditions of section 1581 of such Act, the Secretary shall permit an eligible school district to continue to receive assistance in the form of cash or commodity letters of credit assistance, in lieu of commodities, to carry out the school lunch program operated in the district. [14–13]

[NATIONAL ADVISORY COUNCIL]

[SEC. 15. [15–1] [42 U.S.C. 1763] Repealed.]

ELECTION TO RECEIVE CASH PAYMENTS [16–1]

SEC. 16. [16–2] [42 U.S.C. 1765] (a) Notwithstanding any other provision of law, where a State phased out its commodity distribution facilities prior to June 30, 1974, such State may, for purposes of the programs authorized by this Act and the Child Nutrition Act of 1966 [(42 U.S.C. 1771 et seq.)], elect to receive cash payments in lieu of donated foods. Where such an election is made, the Secretary shall make cash payments to such State in an amount equivalent in value to the donated foods that the State would otherwise have received if it had retained its commodity distribution facilities. The amount of cash payments in the case of lunches shall be governed by section 6(c) [16–3] of this Act.

(b) When such payments are made, the State educational agency shall promptly and equitably disburse any cash it receives in lieu of commodities to eligible schools and institutions, and such dis-

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[14–12] This subsection added by section 363 of P.L. 99–500, 100 Stat. 1783–368, Oct. 18, 1986. Section 363 of P.L. 99–591, 100 Stat. 3341–371, Oct. 30, 1986, and section 4403, P.L. 99–661, 100 Stat. 4079, Nov. 14, 1986, made the same addition.

Section 103(b)(1) of P.L. 101–147, 103 Stat. 882, Nov. 10, 1989, eliminated the duplicate provisions by providing that section 14(g) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1762a(g)), as similarly added first by section 363 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99–500 (100 Stat. 1783–368), later by section 363 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99–591 (100 Stat. 3341–371), and later by section 4403 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661), and as then amended by section 2 of Public Law 100–356, is amended to read as if only the amendment made by section 4403 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987, was enacted.

Section 707(c) of P.L. 104–193, 110 Stat. 2293, Aug. 22, 1996, struck former paragraph (3). Previously, paragraph (3) was amended by section 2 (a), (b), and (c) of P.L. 100–356, 102 Stat. 669, June 28, 1988; section 103(b) of P.L. 101–147, 103 Stat. 882, Nov. 10, 1989; and section 103(c) of P.L. 101–147, 103 Stat. 882, Nov. 10, 1989.

[14–13] Section 1581 of the Food Security Act of 1985 (Public Law 99–198; 99 Stat. 1594) extends through June 30, 1987, the school lunch pilot project involving cash or commodity letters of credit assistance and requires the Secretary of Agriculture to provide bonus commodities to participating school districts.

[15–1] Section 15, which established a National Advisory Council, repealed by section 104 of P.L. 101–147, 103 Stat. 883, Nov. 10, 1989.

[16–1] Section heading added by section 309 of P.L. 101–147, 103 Stat. 915, Nov. 10, 1989.

[16–2] This section added by section 12 of P.L. 94–105, 89 Stat. 515, Oct. 7, 1975.

[16–3] Section 101(b) of P.L. 105–336, 112 Stat. 3144, Oct. 31, 1998, amended this subsection by striking "section 6(e)" and inserting "section 6(c)".

bursements shall be used by such schools and institutions to purchase United States agricultural commodities and other foods for their food service programs.

SEC. 17. [42 U.S.C. 1766] CHILD AND ADULT CARE FOOD PROGRAM.[17–1]

(a) GRANT AUTHORITY AND INSTITUTION ELIGIBILITY.—

(1) GRANT AUTHORITY.—The Secretary[17–3] may carry out a program to assist States through grants-in-aid and other means to initiate and maintain[17–4] nonprofit food service programs for children in institutions providing child care.

(2)[17–5] DEFINITION OF INSTITUTION.—In this section, the term "institution" means—

(A) any public or private nonprofit organization providing nonresidential child care or day care outside school hours for school children, including any child care center, settlement house, recreational center, Head Start center, and institution providing child care facilities for children with disabilities;

(B)[17–5A] any other private organization providing nonresidential child care or day care outside school hours for school children, if—

(i) during the period beginning on the date of enactment of this clause and ending on September 30, 2002,[17–5B] at least 25 percent of the children served by the organization meet the income eligibility criteria es-

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17–1 This section added by section 16 of P.L. 94–105, 89 Stat. 522, Oct. 7, 1975, and completely revised by section 2 of P.L. 95–627, 92 Stat. 3603, Nov. 10, 1978.

The heading amended to read as provided above by section 307(c)(1)(A) of P.L. 106–472, 114 Stat. 2073, November 9, 2000. Previously, the heading was amended by section 105(a) of P.L. 101–147, 103 Stat. 883, Nov. 10, 1989.

See note 6–1.

Section 7(a)(9)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(9)(A)) permits the Secretary to withold from a State funds allocated to a State under this section if the Secretary determines that the administration of any program by a State under such Act (other than section 17 of such Act) or under this Act is seriously deficient and the State fails to correct the deficiency within a specified period of time.

Section 13(3)(A) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (Public Law 100–237; 7 U.S.C. 612c note) defines "recipient agency", for purposes of such Act, to include an agency authorized under the Richard B. Russell National School Lunch Act to operate child care food programs and to receive donations of agricultural commodities and their products acquired by the Secretary through price support, surplus removal, or direct purchase.

Section 708(l) of P.L. 104–193, 110 Stat. 2300, Aug. 22, 1996, requires the Secretary of Agriculture to conduct a study and report to Congress on the impact of the amendments made by section 708 of P.L. 104–193 on specified issues relating to program participation and family day care licensing not later than Aug. 22, 1998.

17–3 Section 243(a)(1) of P.L. 106–224, 114 Stat. 413, June 20, 2000, amended this subsection by striking "(a) The Secretary" and inserting "(a) GRANT" and all that follows through "AUTHORITY.—The Secretary".

17–4 Section 708(a) of P.L. 104–193, 110 Stat. 2293, Aug. 22, 1996, amended this sentence by striking "initiate, maintain, and expand" and inserting "initiate and maintain".

17–5 Section 243(a)(2) of P.L. 106–224, 114 Stat. 413, June 20, 2000, amended this subsection by striking the former second and third sentences and inserting paragraph (2). Previously, the second and third sentences were amended by section 207 of P.L. 96–499, 94 Stat. 2602, Dec. 5, 1980; section 810 of P.L. 97–35, 95 Stat. 528, Aug. 13, 1981; section 107(j)(3)(C) of P.L. 105–336, 112 Stat. 3153, Oct. 31, 1998; section 310(a)(1) of P.L. 101–147, 103 Stat. 915, Nov. 10, 1989; section 202 of P.L. 102–342, 106 Stat. 911, Aug. 14, 1992; and section 107(j)(2)(B) of P.L. 105–336, 112 Stat. 3153, Oct. 31, 1998.

17–5A Section 101(a) of division B of the Miscellaneous Appropriations Act, 2001 (Public Law 106–554, 114 Stat. 2763, 2763A–214, Dec. 21, 2000), amended this subparagraph by striking "children for which the" and inserting "children, if—" and all that follows through "(ii) the".

17–5B Sec. 743 of P.L. 107–76, 115 Stat. 738, Nov. 28, 2001, amended this subparagraph by striking "2001" and inserting "2002".

tablished under section 9(b) for free or reduced price meals; or

(ii) the organization receives compensation from amounts granted to the States under title XX of the Social Security Act (42 U.S.C. 1397 et seq.) (but only if the organization receives compensation under that title for at least 25 percent of its enrolled children or 25 percent of its licensed capacity, whichever is less);

(C) any public or private nonprofit organization acting as a sponsoring organization for one or more of the organizations described in subparagraph (A) or (B) or for an adult day care center (as defined in subsection (o)(2));

(D) any other private organization acting as a sponsoring organization for, and that is part of the same legal entity as, one or more organizations that are—

(i) described in subparagraph (B); or

(ii) proprietary title XIX or title XX centers (as defined in subsection (o)(2));

(E) any public or private nonprofit organization acting as a sponsoring organization for one or more family or group day care homes; and

(F) any emergency shelter (as defined in subsection (t)).

(3) [17–6] AGE LIMIT.—Except as provided in subsection (r), reimbursement may be provided under this section only for meals or supplements served to children not over 12 years of age (except that such age limitation shall not be applicable for children of migrant workers if 15 years of age or less or for children with disabilities). [17–7]

(4) [17–8] ADDITIONAL GUIDELINES.—The Secretary may establish separate guidelines for institutions that provide care to school children outside of school hours.

(5) [17–9] LICENSING.—In order to be eligible, an institution (except a school or family or group day care home sponsoring organization) or family or group day care home shall—

(A)(i) be licensed, or otherwise have approval, by the appropriate Federal, State, or local licensing authority; or

(ii) be in compliance with appropriate procedures for renewing participation in the program, as prescribed by the Secretary, and not be the subject of information possessed by the State indicating that the license of the institution or home will not be renewed;

[17–6] Section 243(a)(3) of P.L. 106–224, 114 Stat. 414, June 20, 2000, amended this subsection by striking "Except as provided in subsection (r)," and inserting "(3) AGE LIMIT.—" and all that follows through "subsection (r),". Previously, section 107(a)(1) of P.L. 105–336, 112 Stat. 3149, Oct. 31, 1998, amended this sentence by striking "Reimbursement" and inserting "Except as provided in subsection (r), reimbursement".

[17–7] The age limitation for children eligible to receive meals added by section 810 of P.L. 97–35, 95 Stat. 528, Aug. 13, 1981. See note 17–5.

[17–8] Section 243(a)(4) of P.L. 106–224, 114 Stat. 414, June 20, 2000, amended this subsection by striking by striking "The Secretary may establish separate guidelines" and inserting "(4) ADDITIONAL GUIDELINES.—" and all that follows through "separate guidelines".

[17–9] Section 243(a)(5) of P.L. 106–224, 114 Stat. 414, June 20, 2000, amended this subsection by striking "For purposes of determining" and all that follows through "an institution" and inserting "(5) LICENSING.—" and all that follows through "an institution". Previously, this sentence was amended by section 372(a) of P.L. 99–500, 100 Stat. 1783–369, Oct. 18, 1986; section 372(a) of P.L. 99–591, 100 Stat. 3341–372, Oct. 30, 1986; section 4502(a) of P.L. 99–661, 100 Stat. 4080, Nov. 14, 1986; and section 107(a)(2) of P.L. 105–336, 112 Stat. 3149, Oct. 31, 1998.

(B) if Federal, State, or local licensing or approval is not available—

(i) meet any alternate approval standards established by the appropriate State or local governmental agency; or

(ii) meet any alternate approval standards established by the Secretary after consultation with the Secretary of Health and Human Services; or

(C) if the institution provides care to school children outside of school hours and Federal, State, or local licensing or approval is not required for the institution, meet State or local health and safety standards. [17–10]

(6) [17–11] ELIGIBILITY CRITERIA.—No institution shall be eligible to participate in the program unless it satisfies the following criteria:

(A) accepts final administrative and financial responsibility for management of an effective food service;

(B) has not been seriously deficient in its operation of the child care food program, or any other program under this Act or the Child Nutrition Act of 1966 **[**(42 U.S.C. 1771 et seq.)**]**, or has not been determined to be ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program, [17–12] for a period of time specified by the Secretary;

(C)(i) [17–13] will provide adequate supervisory and operational personnel for overall monitoring and management of the child care food program; and

(ii) [17–13] in the case of a sponsoring organization, the organization shall employ an appropriate number of monitoring personnel based on the number and characteristics of child care centers and family or group day care homes sponsored by the organization, as approved by the State (in accordance with regulations promulgated by the Secretary), to ensure effective oversight of the operations of the child care centers and family or group day care homes; [17–14]

(D) [17–15] in the case of a family or group day care home sponsoring organization that employs more than one employee, the organization does not base payments to an employee of the organization on the number of family or group day care homes recruited;

(E) [17–16] in the case of a sponsoring organization, the organization has in effect a policy that restricts other employment by employees that interferes with the responsibil-

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[17–10] Section 243(a)(6) of P.L. 106–224, 114 Stat. 414, June 20, 2000, amended this subsection by striking "standards; and" and inserting "standards.".

[17–11] Section 243(a)(7) of P.L. 106–224, 114 Stat. 414, June 20, 2000, amended this subsection "(2) no institution" and inserting "(6) ELIGIBILITY CRITERIA.—No institution".

[17–12] Section 243(a)(8)(A) of P.L. 106–224, 114 Stat. 414, June 20, 2000, amended this subparagraph by inserting ", or has not been determined to be ineligible to participate in any other publicly funded program by reason of violation of the requirements of the program" before ", for a period".

[17–13] Section 243(a)(8)(B) of P.L. 106–224, 114 Stat. 414, June 20, 2000, amended this subparagraph by inserting "(i)" after "(C)" and by adding clause (ii).

[17–14] Section 307(c)(1)(B) of P.L. 106–472, 114 Stat. 2073, November 9, 2000, amended this clause by striking "and" at the end.

[17–15] Subparagraph (D) added by section 708(b) of P.L. 104–193, 110 Stat. 2293, Aug. 22, 1996.

[17–16] Subparagraphs (E) and (F) added by section 243(a)(8)(D) of P.L. 106–224, 114 Stat. 414, June 20, 2000.

ities and duties of the employees of the organization with respect to the program; and

(F) [17–16] in the case of a sponsoring organization that applies for initial participation in the program on or after the date of the enactment of this subparagraph and that operates in a State that requires such institutions to be bonded under State law, regulation, or policy, the institution is bonded in accordance with such law, regulation, or policy.

(b) For the fiscal year ending September 30, 1979, and for each subsequent fiscal year, the Secretary shall provide cash assistance to States for meals as provided in subsection (f) [17–17] of this section, except that, in any fiscal year, the aggregate amount of assistance provided to a State by the Secretary under this section shall not exceed the sum of (1) the Federal funds provided by the State to participating institutions within the State for that fiscal year and (2) any funds used by the State under section 10 of the Child Nutrition Act of 1966 **[**(42 U.S.C. 1779)**]**.

(c) [17–18](1) For purposes of this section, except as provided in subsection (f)(3), the national average payment rate for free lunches and suppers, the national average payment rate for reduced price lunches and suppers, and the national average payment rate for paid lunches and suppers shall be the same as the national average payment rates for free lunches, reduced price lunches, and paid lunches, respectively, under sections 4 and 11 of this Act as appropriate (as adjusted pursuant to section 11(a) of this Act).

(2) For purposes of this section, except as provided in subsection (f)(3), the national average payment rate for free breakfasts, the national average payment rate for reduced price breakfasts, and the national average payment rate for paid breakfasts shall be the same as the national average payment rates for free breakfasts, reduced price breakfasts, and paid breakfasts, respectively, under section 4(b) of the Child Nutrition Act of 1966 **[**(42 U.S.C. 1773(b)**]** (as adjusted pursuant to section 11(a) of this Act). [17–19]

(3) For purposes of this section, except as provided in subsection (f)(3), the national average payment rate for free supplements shall be 30 cents, the national average payment rate for reduced price supplements shall be one-half the rate for free supplements, and the national average payment rate for paid supplements shall be 2.75 cents (as adjusted pursuant to section 11(a) of this Act).

[17–17] Section 810 of P.L. 97–35, 95 Stat. 528, Aug. 13, 1981, changed the reference from subsection (c) to subsection (f).

[17–18] This subsection completely revised by section 810 of P.L. 97–35, 95 Stat. 528, Aug. 13, 1981.

Effective July 1, 1997, section 708(e)(4) of P.L. 104–193, 110 Stat. 2299, Aug. 22, 1996, amended this subsection by inserting "except as provided in subsection (f)(3)," after "For purposes of this section," each place it appears in paragraphs (1), (2), and (3) of this subsection. Section 708(k)(3) of P.L. 104–193, 110 Stat. 2300, Aug. 22, 1996, requires the Secretary to issue interim regulations not later than January 1, 1997, to implement the amendments made by paragraphs (1), (3), and (4) of section 708(e) of P.L. 104–193 and section 17(f)(3)(C) of this Act and to issue final regulations not later than July 1, 1997, to implement the specified provisions.

[17–19] Section 4(b)(3) of the Child Nutrtion Act of 1966 (42 U.S.C. 1773(b)) requires the Secretary to increase by 3 cents the annually adjusted payment for each breakfast served under such Act and this section and requires the funds to be used to improve the nutritional quality of the breakfasts. Section 4210(a) of Public Law 99–661 added paragraph (3) of such section (effective October 1, 1986). In an earlier enactment, section 330(a) of Public Law 99–591 added the identical paragraph (effective July 1, 1987).

(4) Determinations with regard to eligibility for free and reduced price meals and supplements shall be made in accordance with the income eligibility guidelines for free lunches and reduced price lunches, respectively, under section 9 of this Act.

(5) [17–20] A child shall be considered automatically eligible for benefits under this section without further application or eligibility determination, if the child is enrolled as a participant in a Head Start program authorized under the Head Start Act (42 U.S.C. 9831 et seq.), on the basis of a determination that the child is a member of a family that meets the low-income criteria prescribed under section 645(a)(1)(A) of the Head Start Act (42 U.S.C. 9840(a)(1)(A)).

(6) [17–21] A child who has not yet entered kindergarten shall be considered automatically eligible for benefits under this section without further application or eligibility determination if the child is enrolled as a participant in the Even Start program under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.).

(d) [17–22] INSTITUTION APPROVAL AND APPLICATIONS.—

(1) INSTITUTION APPROVAL.—

(A) ADMINISTRATIVE CAPABILITY.—Subject to subparagraph (B) and except as provided in subparagraph (C), the State agency shall approve an institution that meets the requirements of this section for participation in the child and adult care food program if the State agency determines that the institution—

(i) is financially viable;

(ii) is administratively capable of operating the program (including whether the sponsoring organization has business experience and management plans appropriate to operate the program) described in the application of the institution; and

(iii) has internal controls in effect to ensure program accountability.

(B) APPROVAL OF PRIVATE INSTITUTIONS.—

(i) IN GENERAL.—In addition to the requirements established by subparagraph (A) and subject to clause (ii), the State agency shall approve a private institution that meets the requirements of this section for participation in the child and adult care food program only if—

(I) the State agency conducts a satisfactory visit to the institution before approving the participation of the institution in the program; and

(II) the institution—

[17–20] Effective September 25, 1995, this paragraph added by section 109(b) of P.L. 103–448, 108 Stat. 4705, Nov. 2, 1994. Although such section 109 amended this subsection "by adding at the end" paragraph (5) and delayed the amendment until after paragraph (6) was added, paragraph (5) was inserted before paragraph (6) to effectuate the probable intent of Congress.

[17–21] This paragraph added by section 116(a) of P.L. 103–448, 108 Stat. 4714, Nov. 2, 1994. See note 17–20. Section 107(b) of P.L. 105–336, 112 Stat. 3150, Oct. 31, 1998, amended this paragraph by striking "(A)" and by striking subparagraph (B).

[17–22] Section 243(b)(1) of P.L. 106–224, 114 Stat. 415, June 20, 2000, amended this subsection by striking the subsection designation and all that follows through the end of paragraph (1) and inserting "(d)" and all that follows through the end of paragraph (1). Previously, this text was amended by sections 204(a) and 310(a)(2) of P.L. 101–147, 103 Stat. 909, 915, Nov. 10, 1989; section 708(c) of P.L. 104–193, 110 Stat. 2294, Aug. 22, 1996; and section 107 of P.L. 105–336, 112 Stat. 3150, Oct. 31, 1998.

(aa) has tax exempt status under the Internal Revenue Code of 1986;

(bb) is operating a Federal program requiring nonprofit status to participate in the program; or

(cc) is described in subsection (a)(2)(B).

(ii) EXCEPTION FOR FAMILY OR GROUP DAY CARE HOMES.—Clause (i) shall not apply to a family or group day care home.

(C) EXCEPTION FOR CERTAIN SPONSORING ORGANIZATIONS.—

(i) IN GENERAL.—The State agency may approve an eligible institution acting as a sponsoring organization for one or more family or group day care homes or centers that, at the time of application, is not participating in the child and adult care food program only if the State agency determines that—

(I) the institution meets the requirements established by subparagraphs (A) and (B); and

(II) the participation of the institution will help to ensure the delivery of benefits to otherwise unserved family or group day care homes or centers or to unserved children in an area.

(ii) CRITERIA FOR SELECTION.—The State agency shall establish criteria for approving an eligible institution acting as a sponsoring organization for one or more family or group day care homes or centers that, at the time of application, is not participating in the child and adult care food program for the purpose of determining if the participation of the institution will help ensure the delivery of benefits to otherwise unserved family or group day care homes or centers or to unserved children in an area.

(D) NOTIFICATION TO APPLICANTS.—Not later than 30 days after the date on which an applicant institution files a completed application with the State agency, the State agency shall notify the applicant institution whether the institution has been approved or disapproved to participate in the child and adult care food program.

(2) [17–23](A) The Secretary shall develop a policy that—

(i) [17–24] allows institutions providing child care that participate in the program under this section, at the option of the State agency, to reapply for assistance under this section at 3-year intervals; [17–25]

(ii) [17–26](I) requires periodic unannounced site visits at not less than 3-year intervals to sponsored child care centers and

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[17–23] See note 17–22.

[17–24] Section 107(c)(2)(A) of P.L. 105–336, 112 Stat. 3150, Oct. 31, 1998, amended this subparagraph by striking "that allows" and inserting "that—" and all that follows through "(i) allows".

[17–25] Section 116(b) of P.L. 103–448, 108 Stat. 4714, Nov. 2, 1994, amended paragraph (2) by striking "2-year intervals" and inserting "3-year intervals". Section 107(c)(2)(B) of P.L. 105–336, 112 Stat. 3150, Oct. 31, 1998, amended this subparagraph by striking the period at the end and inserting "; and". Section 243(b)(2)(A) of P.L. 106–224, 114 Stat. 416, June 20, 2000, amended this clause by striking "; and" and inserting a semicolon.

[17–26] Section 243(b)(2) of P.L. 106–224, 114 Stat. 416, June 20, 2000, amended this subparagraph by redesignating former clause (ii) as clause (iii) and inserting a new clause (ii).

family or group day care homes to identify and prevent management deficiencies and fraud and abuse under the program;

(II) requires at least one scheduled site visit each year to sponsored child care centers and family or group day care homes to identify and prevent management deficiencies and fraud and abuse under the program and to improve program operations; and

(III) requires at least one scheduled site visit at not less than 3-year intervals to sponsoring organizations and nonsponsored child care centers to identify and prevent management deficiencies and fraud and abuse under the program and to improve program operations; and

(iii) [17–27] requires periodic site visits to private institutions that the State agency determines have a high probability of program abuse.

(B) Each State agency that exercises the option authorized by subparagraph (A) shall confirm on an annual basis that each such institution is in compliance with the licensing or approval provisions of subsection (a)(5). [17–28]

(3) [17–29] PROGRAM INFORMATION.—

(A) IN GENERAL.—On enrollment of a child in a sponsored child care center or family or group day care home participating in the program, the center or home (or its sponsoring organization) shall provide to the child's parents or guardians—

(i) information that describes the program and its benefits; and

(ii) the name and telephone number of the sponsoring organization of the center or home and the State agency involved in the operation of the program.

(B) FORM.—The information described in subparagraph (A) shall be in a form and, to the maximum extent practicable, language easily understandable by the child's parents or guardians.

(4) [17–30] ALLOWABLE ADMINISTRATIVE EXPENSES FOR SPONSORING ORGANIZATIONS.—In consultation with State agencies and sponsoring organizations, the Secretary shall develop, and provide for the dissemination to State agencies and sponsoring organizations of, a list of allowable reimbursable administrative expenses for sponsoring organizations under the program.

(5) [17–31] TERMINATION OR SUSPENSION OF PARTICIPATING ORGANIZATIONS.—

(A) IN GENERAL.—The Secretary shall establish procedures for the termination of participation by institutions and family or group day care homes under the program.

[17–27] This clause added by section 107(c)(2)(C) of P.L. 105–336, 112 Stat. 3150, Oct. 31, 1998. For redesignation, see note 17–26.

[17–28] Section 243(b)(3) of P.L. 106–224, 114 Stat. 416, June 20, 2000, amended this subparagraph by striking "subsection (a)(1)" and inserting "subsection (a)(5)".

[17–29] Paragraph (3) added by section 243(b)(4)(A) of P.L. 106–224, 114 Stat. 416, June 20, 2000. Section 243(b)(4)(B) of P.L. 106–224, 114 Stat. 417, June 20, 2000, provides that, in the case of a child that is enrolled in a sponsored child care center or family or group day care home participating in the child and adult care food program under this section before June 20, 2000, the center or home shall provide information to the child's parents or guardians pursuant to this paragraph not later than 90 days after June 20, 2000.

[17–30] Paragraph (4) added by section 243(b)(5) of P.L. 106–224, 114 Stat. 417, June 20, 2000.

[17–31] Paragraph (5) added by section 243(c) of P.L. 106–224, 114 Stat. 417, June 20, 2000.

(B) STANDARDS.—Procedures established pursuant to subparagraph (A) shall include standards for terminating the participation of an institution or family or group day care home that—

(i) engages in unlawful practices, falsifies information provided to the State agency, or conceals a criminal background; or

(ii) substantially fails to fulfill the terms of its agreement with the State agency.

(C) CORRECTIVE ACTION.—Procedures established pursuant to subparagraph (A)—

(i) shall require an entity described in subparagraph (B) to undertake corrective action; and

(ii) may require the immediate suspension of operation of the program by an entity described in subparagraph (B), without the opportunity for corrective action, if the State agency determines that there is imminent threat to the health or safety of a participant at the entity or the entity engages in any activity that poses a threat to public health or safety.

(D) [17–31A] HEARING.—

(i) IN GENERAL.—Except as provided in clause (ii), an institution or family or group day care home shall be provided a fair hearing in accordance with subsection (e)(1) prior to any determination to terminate participation by the institution or family or group day care home under the program.

(ii) [17–31B] EXCEPTION FOR FALSE OR FRAUDULENT CLAIMS.—

(I) IN GENERAL.—If a State agency determines that an institution has knowingly submitted a false or fraudulent claim for reimbursement, the State agency may suspend the participation of the institution in the program in accordance with this clause.

(II) REQUIREMENT FOR REVIEW.—Prior to any determination to suspend participation of an institution under subclause (I), the State agency shall provide for an independent review of the proposed suspension in accordance with subclause (III).

(III) REVIEW PROCEDURE.—The review shall—

(aa) be conducted by an independent and impartial official other than, and not accountable to, any person involved in the determination to suspend the institution;

(bb) provide the State agency and the institution the right to submit written documentation relating to the suspension, including State agency documentation of the alleged false or fraudulent claim for reimbursement and the response of the institution to the documentation;

[17–31A] Section 307(c)(2)(A) of P.L. 106–472, 114 Stat. 2073, November 9, 2000, amended this subparagraph by striking "(D) HEARING.—An institution" and inserting "(D) HEARING.—" through "(i) IN GENERAL.—Except as provided in clause (ii), an institution".

[17–31B] Clause (ii) added by section 307(c)(2)(B) of P.L. 106–472, 114 Stat. 2073, November 9, 2000.

(cc) require the reviewing official to determine, based on the review, whether the State agency has established, based on a preponderance of the evidence, that the institution has knowingly submitted a false or fraudulent claim for reimbursement;

(dd) require the suspension to be in effect for not more than 120 calendar days after the institution has received notification of a determination of suspension in accordance with this clause; and

(ee) require the State agency during the suspension to ensure that payments continue to be made to sponsored centers and family and group day care homes meeting the requirements of the program.

(IV) HEARING.—A State agency shall provide an institution that has been suspended from participation in the program under this clause an opportunity for a fair hearing on the suspension conducted in accordance with subsection (e)(1).

(E) LIST OF DISQUALIFIED INSTITUTIONS AND INDIVIDUALS.—

(i) IN GENERAL.—The Secretary shall maintain a list of institutions, sponsored family or group day care homes, and individuals that have been terminated or otherwise disqualified from participation in the program.

(ii) AVAILABILITY.—The Secretary shall make the list available to State agencies for use in approving or renewing applications by institutions, sponsored family or group day care homes, and individuals for participation in the program.

(e) [17–32](1) Except as provided in paragraph (2), the State shall provide, in accordance with regulations issued by the Secretary, a fair hearing and a prompt determination to any institution aggrieved by the action of the State as it affects the participation of such institution in the program authorized by this section, or its claim for reimbursement under this section.

(2) A State is not required to provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination.

(3) If a State does not provide a hearing to an institution concerning a State action taken on the basis of a Federal audit determination, the Secretary, on request, shall afford a hearing to the institution concerning the action.

[17–32] Section 361 of P.L. 99–500, 100 Stat. 1783–367, Oct. 18, 1986, substituted "(1) Except as provided in paragraph (2), the" for "The" and added paragraphs (2) and (3). Section 361 of P.L. 99–591, 100 Stat. 3341–370, Oct. 30, 1986, and section 4401 of P.L. 99–661, 100 Stat. 4079, Nov. 14, 1986, made the same substitution and additions.

Section 310(b) of P.L. 101–147, 103 Stat. 916, Nov. 10, 1989, eliminated the duplicate provisions by providing that section 17(e) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766(e)), as similarly amended first by section 361 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99–500 (100 Stat. 1783–367), later by section 361 of the School Lunch and Child Nutrition Amendments of 1986, as contained in Public Law 99–591 (100 Stat. 3341–370), and later by section 4401 of the Child Nutrition Amendments of 1986, as contained in the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661), is amended to read as if only the latest amendment was enacted.

(f) [17–33] STATE DISBURSEMENTS TO INSTITUTIONS.—

(1) IN GENERAL.—

(A) REQUIREMENT.—Funds paid to any State under this section shall be disbursed to eligible institutions by the State under agreements approved by the Secretary. Disbursements to any institution shall be made only for the purpose of assisting in providing meals to children attending institutions, or in family or group day care [17–34] homes. Disbursement to any institution shall not be dependent upon the collection of moneys from participating children. All valid claims from such institutions shall be paid within forty-five days of receipt by the State. The State shall notify the institution within fifteen days of receipt of a claim if the claim as submitted is not valid because it is incomplete or incorrect.

(B) [17–35] FRAUD OR ABUSE.—

(i) IN GENERAL.—The State may recover funds disbursed under subparagraph (A) to an institution if the State determines that the institution has engaged in fraud or abuse with respect to the program or has submitted an invalid claim for reimbursement.

(ii) PAYMENT.—Amounts recovered under clause (i)—

(I) may be paid by the institution to the State over a period of one or more years; and

(II) shall not be paid from funds used to provide meals and supplements.

(iii) HEARING.—An institution shall be provided a fair hearing in accordance with subsection (e)(1) prior to any determination to recover funds under this subparagraph.

(2) [17–36](A) Subject to subparagraph (B) of this paragraph, the disbursement for any fiscal year to any State for disbursement to institutions, other than family or group day care home sponsoring organizations, for meals provided under this section shall be equal to the sum of the products obtained by multiplying the total number of each type of meal (breakfast, lunch, or supper, or supplement) served in such institution in that fiscal year by the applicable national average payment rate for each such type of meal, as determined under subsection (c).

(B) No reimbursement may be made to any institution under this paragraph, or to family or group day care home sponsoring organizations under paragraph (3) of this subsection, for more than two meals and one supplement per day per child, or in the case of an institution (but not in the case of a family or group day care home sponsoring organization), 2 meals and 1 supplement [17–37] per

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[17–33] Section 243(d)(1) of P.L. 106–224, 114 Stat. 418, June 20, 2000, amended this subsection by striking "(f)(1) Funds paid" and inserting "(f)" and all that follows through "Funds paid".

[17–34] Section 310(a)(3)(A) of P.L. 101–147, 103 Stat. 915, Nov. 10, 1989, amended subsection (f)(1) by striking "day-care" and inserting "day care".

[17–35] Subparagraph (B) added by section 243(d)(2) of P.L. 106–224, 114 Stat. 418, June 20, 2000.

[17–36] Remainder of subsection completely revised by section 810 of P.L. 97–35, 95 Stat. 528, Aug. 13, 1981.

[17–37] Section 708(d) of P.L. 104–193, 110 Stat. 2294, Aug. 22, 1996, amended this subparagraph by striking "two meals and two supplements or three meals and one supplement" and inserting "2 meals and 1 supplement".

day per child, for children that are maintained in a child care setting for eight or more hours per day.[17–38]

(C)[17–39] LIMITATION ON ADMINISTRATIVE EXPENSES FOR CERTAIN SPONSORING ORGANIZATIONS.—

(i) IN GENERAL.—Except as provided in clause (ii), a sponsoring organization of a day care center may reserve not more than 15 percent of the funds provided under paragraph (1) for the administrative expenses of the organization.

(ii) WAIVER.—A State may waive the requirement in clause (i) with respect to a sponsoring organization if the organization provides justification to the State that the organization requires funds in excess of 15 percent of the funds provided under paragraph (1) to pay the administrative expenses of the organization.

(3)[17–40] REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

(A) REIMBURSEMENT FACTOR.—

(i) IN GENERAL.—An institution that participates in the program under this section as a family or group day care home sponsoring organization shall be provided, for payment to a home sponsored by the organization, reimbursement factors in accordance with this subparagraph for the cost of obtaining and preparing food and prescribed labor costs involved in providing meals under this section.

(ii) TIER I FAMILY OR GROUP DAY CARE HOMES.—

(I) DEFINITION OF TIER I FAMILY OR GROUP DAY CARE HOME.—In this paragraph, the term 'tier I family or group day care home' means—

(aa) a family or group day care home that is located in a geographic area, as defined by the Secretary based on census data, in which at least 50 percent of the children residing in the area are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9;

(bb) a family or group day care home that is located in an area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or

(cc) a family or group day care home that is operated by a provider whose household meets the income eligibility guidelines for free

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[17–38] Comma and language after "child" to period added by section 211 of P.L. 100–435, 102 Stat. 1657, Sept. 19, 1988, effective July 1, 1989. Additional period struck by section 310(a)(3)(B) of P.L. 101–147, 103 Stat. 915, Nov. 10, 1989.

[17–39] Subparagraph (C) added by section 243(e) of P.L. 106–224, 114 Stat. 418, June 20, 2000.

[17–40] Effective July 1, 1997, section 708(e)(1) of P.L. 104–193, 110 Stat. 2294, Aug. 22, 1996, amended in its entirety "(3)(A) Institutions" and all that follows through the end of subparagraph (A). For regulations, see note 17–18. Previously, this paragraph was amended by section 810 of P.L. 97–35, 95 Stat. 529, Aug. 13, 1981.

or reduced price meals under section 9 and whose income is verified by the sponsoring organization of the home under regulations established by the Secretary.

(II) REIMBURSEMENT.—Except as provided in subclause (III), a tier I family or group day care home shall be provided reimbursement factors under this clause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

(III) FACTORS.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on July 1, 1996.

(IV) ADJUSTMENTS.—The reimbursement factors under this subparagraph shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent increment and based on the unrounded adjustment in effect on June 30 of the preceding school year.

(iii) TIER II FAMILY OR GROUP DAY CARE HOMES.—

(I) IN GENERAL.—

(aa) FACTORS.—Except as provided in subclause (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be 95 cents for lunches and suppers, 27 cents for breakfasts, and 13 cents for supplements.

(bb) ADJUSTMENTS.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

(cc) REIMBURSEMENT.—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the

children of a person acting as a family or group day care home provider unless the children meet the income eligibility guidelines for free or reduced price meals under section 9.

(II) OTHER FACTORS.—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined in accordance with the following requirements:

(aa) CHILDREN ELIGIBLE FOR FREE OR REDUCED PRICE MEALS.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes meet the income eligibility guidelines for free or reduced price meals under section 9, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).

(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the income eligibility guidelines, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).

(III) INFORMATION AND DETERMINATIONS.—

(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.

(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or reduced price meals under section 9 to be a child who is a member of a household whose income meets the income eligibility guidelines under section 9.

(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III) solely for the children participating in a program referred to in item

(bb) if the home elects not to have income statements collected from parents or other caretakers.

(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that sponsors the home. The procedures the Secretary prescribes may include 1 or more of the following:

(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under subclause (I), based on the family income of children enrolled in the home in a specified month or other period.

(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the income eligibility guidelines under section 9, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(III) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(III) and subclause (I).

(cc) Such other simplified procedures as the Secretary may prescribe.

(V) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any minimum verification requirements that are necessary to carry out this clause.

(B) Family or group day care home sponsoring organizations shall also receive reimbursement for their administrative expenses in amounts not exceeding the maximum allowable levels prescribed by the Secretary. Such levels shall be adjusted July 1 of each year to reflect changes in the Consumer Price Index for all items for the most recent 12-month period for which such data are available.[17–41]

(C)[17–42] (i)[17–43] Reimbursement for administrative expenses shall also include start-up funds to finance the administrative expenses for such institutions to initiate successful operation under the program and expansion funds to finance the administrative expenses for such institutions to expand into low-income or rural

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[17–41] Section 708(f)(1)(A) of P.L. 104–193, 110 Stat. 2299, Aug. 22, 1996, amended this subparagraph by striking the third and fourth sentences.

[17–42] This sentence designated as clause (C) by section 810 of P.L. 97–35, 95 Stat. 529, Aug. 13, 1981.

Section 105(b)(1) of P.L. 101–147, 103 Stat. 883, Nov. 10, 1989, made multiple amendments to this subparagraph to require reimbursement for expansion funds.

[17–43] Section 116(c) of P.L. 103–448, 108 Stat. 4714, Nov. 2, 1994, amended this subparagraph by inserting "(i)" after "(C)" and by adding clause (ii).

areas. Institutions that have received start-up funds may also apply at a later date for expansion funds. Such start-up funds and expansion funds shall be in addition to other reimbursement to such institutions for administrative expenses. Start-up funds and expansion funds shall be payable to enable institutions satisfying the criteria of subsection (d) of this section, and any other standards prescribed by the Secretary, to develop an application for participation in the program as a family or group day care home sponsoring organization or to implement the program upon approval of the application. Such start-up funds and expansion funds shall be payable in accordance with the procedures prescribed by the Secretary. The amount of start-up funds and expansion funds payable to an institution shall be not less than the institution's anticipated reimbursement for administrative expenses under the program for one month and not more than the institution's anticipated reimbursement for administrative expenses under the program for two months.

(ii)[17–44] Funds for administrative expenses may be used by family or group day care home sponsoring organizations assist unlicensed family or group day care homes in becoming[17–45] licensed.

(D)[17–46] LIMITATIONS ON ABILITY OF FAMILY OR GROUP DAY CARE HOMES TO TRANSFER SPONSORING ORGANIZATIONS.—

(i) IN GENERAL.—Subject to clause (ii), a State agency shall limit the ability of a family or group day care home to transfer from a sponsoring organization to another sponsoring organization more frequently than once a year.

(ii) GOOD CAUSE.—The State agency may permit or require a family or group day care home to transfer from a sponsoring organization to another sponsoring organization more frequently than once a year for good cause (as determined by the State agency), including circumstances in which the sponsoring organization of the family or group day care home ceases to participate in the child and adult care food program.

(E)[17–47] PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child and adult care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.

(ii) SCHOOL DATA.—

(I) IN GENERAL.—A State agency administering the school lunch program under this Act

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[17–44] See note 17–43.

[17–45] Section 708(f)(1)(B) of P.L. 104–193, 110 Stat. 2299, Aug. 22, 1996, amended this clause by striking "conduct outreach" and all that follows through "may become" and inserting "assist unlicensed family or group day care homes in becoming".

[17–46] Section 243(f) of P.L. 106–224, 114 Stat. 419, June 20, 2000, amended subparagraph (D) in its entirety. Previously, subparagraph (D) added by section 708(e)(2) of P.L. 104–193, 110 Stat. 2297, Aug. 22, 1996.

[17–47] Subparagraph (E) added by section 708(e)(3) of P.L. 104–193, 110 Stat. 2298, Aug. 22, 1996.

or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall provide to approved family or group day care home sponsoring organizations a list of schools serving elementary school children in the State in which not less than ½ of the children enrolled are certified to receive free or reduced price meals. The State agency shall collect the data necessary to create the list annually and provide the list on a timely basis to any approved family or group day care home sponsoring organization that requests the list.

(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the program under this section, and a family or group day care home sponsoring organization, shall use the most current available data at the time of the determination.

(iii) DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 3 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.

(4) [17–48] By the first day of each month of operation, the State may [17–49] provide advance payments for the month to each approved institution in an amount that reflects the full level of valid claims customarily received from such institution for one month's operation. In the case of a newly participating institution, the amount of the advance shall reflect the State's best estimate of the level of valid claims such institutions will submit. If the State has reason to believe that an institution will not be able to submit a valid claim covering the period for which such an advance has been made, the subsequent month's advance payment shall be withheld until the State receives a valid claim. Payments advanced to institutions that are not subsequently deducted from a valid claim for reimbursement shall be repaid upon demand by the State. Any prior payment that is under dispute may be subtracted from an advance payment.

(g)(1)(A) [17–50] Meals served by institutions participating in the program under this section shall consist of a combination of foods

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[17–48] Section 810 of P.L. 97–35, 95 Stat. 529, Aug. 13, 1981, redesignated former paragraph (5) as paragraph (4).

[17–49] Section 708(f)(2) of P.L. 104–193, 110 Stat. 2299, Aug. 22, 1996, amended this sentence by striking "shall" and inserting "may".

[17–50] Section 105(c)(1) of P.L. 103–448, 108 Stat. 4702, Nov. 2, 1994, inserted "(A)" after "(1)".

that meet minimum nutritional requirements prescribed by the Secretary on the basis of tested nutritional research. [17–51]

(B) [17–52] The Secretary shall provide technical assistance to those institutions participating in the program under this section to assist the institutions and family or group day care home sponsoring organizations in complying with the nutritional requirements prescribed by the Secretary pursuant to subparagraph (A). [17–53]

(2) [17–54] No physical segregation or other discrimination against any child shall be made because of his or her inability to pay, nor shall there be any overt identification of any such child by special tokens or tickets, different meals or meal service, announced or published lists of names, or other means.

(3) Each institution shall, insofar as practicable, use in its food service foods designated from time to time by the Secretary as being in abundance, either nationally or in the food service area, or foods donated by the Secretary.

(h)(1) [17–55](A) The Secretary shall donate agricultural commodities produced in the United States for use in institutions participating in the child care food program under this section.

(B) The value of the commodities donated under subparagraph (A) (or cash in lieu of commodities) to each State for each school year shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions in that State during the preceding school year by the rate for commodities or cash in lieu of commodities established under section 6(c) [17–56] for the school year concerned.

(C) After the end of each school year, the Secretary shall—

(i) reconcile the number of lunches and suppers served in participating institutions in each State during such school year with the number of lunches and suppers served by participating institutions in each State during the preceding school year; and

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[17–51] Section 708(g)(1) of P.L. 104–193, 110 Stat. 2299, Aug. 22, 1996, struck the second sentence of this subparagraph.

Section 330(b) of Public Law 99–591 and section 4210(b) of Public Law 99–661 (42 U.S.C. 1766 note) require the Secretary of Agriculture to review and revise the nutrition requirements for meals served under the breakfast program authorized under this section to improve the nutritional quality of the meals and to promulgate regulations to implement the revisions.

[17–52] This subparagraph added by section 105(c)(2) of P.L. 103–448, 108 Stat. 4702, Nov. 2, 1994.

[17–53] Section 708(g)(2) of P.L. 104–193, 110 Stat. 2299, Aug. 22, 1996, struck the second sentence of this subparagraph.

[17–54] Section 810 of P.L. 97–35, 95 Stat. 529, Aug. 13, 1981, deleted paragraph (2) and renumbered paragraphs (3) and (4) as (2) and (3), respectively.

[17–55] Paragraph (1) completely revised by section 131(b) of P.L. 101–147, 103 Stat. 907, Nov. 10, 1989.

In former text, "(1)" inserted after "(h)" by section 214 of P.L. 100–435, 102 Stat. 1659, Sept. 19, 1988.

Section 4(b)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(4)) requires the Secretary, whenever stocks of agricultural commodities are acquired by the Secretary or the Commodity Credit Corporation and are not likely to be sold by the Secretary or the Commodity Credit Corporation or otherwise used in programs of commodity sale or distribution, to make such commodities available to school food authorities and eligible institutions serving breakfasts under such Act in a quantity equal in value to not less than 3 cents for each breakfast served under such Act and this section. Section 4210(a) of Public Law 99–661 added paragraph (4) of such section (effective October 1, 1986). In an earlier enactment, section 330(a) of Public Law 99–591 added the identical paragraph (effective July 1, 1987).

[17–56] Section 101(b) of P.L. 105–336, 112 Stat. 3144, Oct. 31, 1998, amended this subparagraph by striking "section 6(e)" and inserting "section 6(c)".

(ii) based on such reconciliation, increase or reduce subsequent commodity assistance or cash in lieu of commodities provided to each State.

(D) Any State receiving assistance under this section for institutions participating in the child care food program may, upon application to the Secretary, receive cash in lieu of some or all of the commodities to which it would otherwise be entitled under this subsection. In determining whether to request cash in lieu of commodities, the State shall base its decision on the preferences of individual participating institutions within the State, unless this proves impracticable due to the small number of institutions preferring donated commodities.

(2) [17–57] The Secretary is authorized to provide agricultural commodities obtained by the Secretary under the provisions of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) and donated under the provisions of section 416 of such Act, to the Department of Defense for use by its institutions providing child care services, when such commodities are in excess of the quantities needed to meet the needs of all other child nutrition programs, domestic and foreign food assistance and export enhancement programs. The Secretary shall require reimbursement from the Department of Defense for the costs, or some portion thereof, of delivering such commodities to overseas locations, unless the Secretary determines that it is in the best interest of the program that the Department of Agriculture shall assume such costs.

(i) [17–58] The Secretary shall make available for each fiscal year to States administering the child care food program, for the purpose of conducting audits of participating institutions, an amount up to 1.5 percent (except, in the case of each of fiscal years 2005 through 2007, 1 percent) [17–59] of the funds used by each State in the program under this section, during the second preceding fiscal year.

(j) The Secretary may issue regulations directing States to develop and provide for the use of a standard form of agreement between each family or group day care sponsoring organization and the family or group day care homes participating in the program under such organization, for the purpose of specifying the rights and responsibilities of each party.

[(k) [17–60]]

(k) [17–61] TRAINING AND TECHNICAL ASSISTANCE.—A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.

[17–57] This paragraph added by section 214 of P.L. 100–435, 102 Stat. 1659, Sept. 19, 1988.

[17–58] Former subsections (i), (m), and (n) repealed and former subsections (j), (k), (l), (o), (p), (q), (r), and (s) redesignated as (i) through (o), respectively, by section 817 of P.L. 97–35, 95 Stat. 532, Aug. 13, 1981.

[17–59] Section 107(e) of P.L. 105–336, 112 Stat. 3150, Oct. 31, 1998, amended this subsection by striking "2 percent" and inserting "1.5 percent (except, in the case of each of fiscal years 2005 through 2007, 1 percent)".

[17–60] Section 310(a)(4) of P.L. 101–147, 103 Stat. 915, Nov. 10, 1989, amended section 17 by striking (k) (relating to certain executed studies) and redesignating the suceeding subsections accordingly.

[17–61] Section 708(h) of P.L. 104–193, 110 Stat. 2299, Aug. 22, 1996, amended this subsection in its entirety. Previously, this subsection was amended by section 810 of P.L. 97–35, 95 Stat. 529, Aug. 13, 1981; section 105(b)(2) and 310(a)(4) of P.L. 101–147, 103 Stat. 883, Nov. 10, 1989; and section 116(d) of P.L. 103–448, 108 Stat. 4714, Nov. 2, 1994.

(l)[17–62] Expenditures of funds from State and local sources for the maintenance of food programs for children shall not be diminished as a result of funds received under this section.

(m)[17–63] States and institutions participating in the program under this section shall keep such accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with the requirements of this section. Such accounts and records shall be available at any reasonable time[17–64] for inspection and audit by representatives of the Secretary, the Comptroller General of the United States, and appropriate State representatives and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

(n)[17–65] There are hereby authorized to be appropriated for each fiscal year such funds as are necessary to carry out the purposes of this section.

(o)[17–66](1) For purposes of this section, adult day care centers shall be considered eligible institutions for reimbursement for meals or supplements served to persons 60 years of age or older or to chronically impaired disabled persons, including victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction. Reimbursement provided to such institutions for such purposes shall improve the quality of meals or level of services provided or increase participation in the program. Lunches served by each such institution for which reimbursement is claimed under this section shall provide, on the average, approximately ⅓ of the daily recommended dietary allowance established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. Such institutions shall make reasonable efforts to serve meals that meet the special dietary requirements of participants, including efforts to serve foods in forms palatable to participants.[17–67]

(2) For purposes of this subsection—

(A) the term "adult day care center" means any public agency or private nonprofit organization, or any proprietary title XIX or title XX center, which—

(i) is licensed or approved by Federal, State, or local authorities to provide adult day care services to chronically impaired disabled adults or persons 60 years of age or older in a group setting outside their homes, or a group living arrangement,[17–68] on a less than 24-hour basis; and

(ii) provides for such care and services directly or under arrangements made by the agency or organization whereby the agency or organization maintains professional management responsibility for all such services; and

(B) the term "proprietary title XIX or title XX center" means any private, for-profit center providing adult day care

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[17–61] For redesignation, see note 17–60.

[17–63] For redesignation, see note 17–60.

[17–64] Section 708(i) of P.L. 104–193, 110 Stat. 2299, Aug. 22, 1996, amended this sentence by striking "at all times" and inserting "at any reasonable time".

[17–65] For redesignation, see note 17–60.

[17–66] Subsection (p) added by section 401 of P.L. 100–175, 101 Stat. 972, Nov. 29, 1987. For redesignation, see note 17–60.

[17–67] The last two sentences of paragraph (1) added by section 105(b)(3)(A) of P.L. 101–147, 103 Stat. 884, Nov. 10, 1989.

[17–68] Section 811(a) of the Older Americans Act Amendments of 1992 (Public Law 102–375) amended this clause by inserting ", or a group living arrangement," after "homes". Section 811(b) of such Act provided that the amendment shall take effect as if the amendment had been included in the Older Americans Act Amendments of 1987.

services for which it receives compensation from amounts granted to the States under title XIX or XX of the Social Security Act [(42 U.S.C. 1396 et seq.)] and which title XIX or title XX beneficiaries were not less than 25 percent of enrolled eligible participants in a calendar month preceding initial application or annual reapplication for program participation.

(3)(A) The Secretary, in consulation with the Assistant Secretary for Aging,[17–69] shall establish, within 6 months of enactment [enacted on October 1, 1988], separate guidelines for reimbursement of institutions described in this subsection. Such reimbursement shall take into account the nutritional requirements of eligible persons, as determined by the Secretary on the basis of tested nutritional research, except that such reimbursement shall not be less than would otherwise be required under this section.

(B) The guidelines shall contain provisions designed to assure that reimbursement under this subsection shall not duplicate reimbursement under part C of title III of the Older Americans Act of 1965 [(42 U.S.C. 3030e et seq.)], for the same meal served.

(4)[17–70] For the purpose of establishing eligibility for free or reduced price meals or supplements under this subsection, income shall include only the income of an eligible person and, if any, the spouse and dependents with whom the eligible person resides.

(5) A person described in paragraph (1) shall be considered automatically eligible for free meals or supplements under this subsection, without further application or eligibility determination, if the person is—

(A) a member of a household receiving assistance under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

(B) a recipient of assistance under title XVI or XIX of the Social Security Act (42 U.S.C. 1381 et seq.).

(6)[17–71] The Governor of any State may designate to administer the program under this subsection a State agency other than the agency that administers the child care food program under this section.

(p)[17–72](1) From amounts appropriated or otherwise made available for purposes of carrying out this section, the Secretary shall carry out State-wide demonstration projects in three States[17–73] under which private for-profit organizations providing nonresidential day care services shall qualify as institutions for the purposes of this section. An organization may participate in a demonstration project described in the preceding sentence if—

[17–69] Sec. 3(b)(4) of P.L. 103–171, 107 Stat. 1991, Dec. 2, 1993, amended paragraph (3)(A) by striking "Commissioner of Aging" and inserting "Assistant Secretary for Aging".

[17–70] Paragraphs (4) and (5) added by section 641 (a) and (b) of P.L. 100–460, 101 Stat. 2265, Oct. 1, 1988.

[17–71] Paragraph (6) added by section 105(b)(3)(B) of P.L. 101–147, 103 Stat. 884, Nov. 10, 1989.

[17–72] This subsection added by section 105(b)(4) of P.L. 101–147, 103 Stat. 884, Nov. 10, 1989.

For redesignation, see note 17–60.

Section 107(f) of P.L. 105–336, 112 Stat. 3150, Oct. 31, 1998, struck former paragraphs (4) and (5). Previously, section 116(e)(2) of P.L. 103–448, 108 Stat. 4714, Nov. 2, 1994, amended former paragraph (4)(B) by striking "1992" and inserting "1998". Previously, former paragraph (5) added by section 203 of P.L. 102–342, 106 Stat. 911, Aug. 14, 1992, and amended by section 116(e)(3) of P.L. 103–448, 108 Stat. 4714, Nov. 2, 1994, which struck "1994" and inserted "1998".

[17–73] Section 243(g)(1)(A) of P.L. 106–224, 114 Stat. 419, June 20, 2000, amended this sentence by striking "2 statewide demonstration projects" and inserting "State-wide demonstration projects in three States".

(A) at least 25 percent of the children enrolled in the organization or 25 percent of the licensed capacity of the organization for children, whichever is less,[17–74] meet the income eligibility criteria established under section 9(b) for free or reduced price meals; and

(B) as a result of the participation of the organization in the project—

(i) the nutritional content or quality of meals and snacks served to children under the care of such organization will be improved; or

(ii) fees charged by such organization for the care of the children described in subparagraph (A) will be lowered.

(2) Under each such project, the Secretary shall examine—

(A) the budgetary impact of the change in eligibility being tested;

(B) the extent to which, as a result of such change, additional low-income children can be reached; and

(C) which outreach methods are most effective.

(3) The Secretary shall choose to conduct demonstration projects under this subsection in—[17–75]

(A) 1 State that—

(i) has a history of participation of for-profit organizations in the child care food program;

(ii) allocates a significant proportion of the amounts it receives for child care under title XX of the Social Security Act in a manner that allows low-income parents to choose the type of child care their children will receive;

(iii) has other funding mechanisms that support parental choice for child care;

(iv) has a large, State-regulated for-profit child care industry that serves low-income children; and

(v) has large sponsors of family or group day care homes that have a history of recruiting and sponsoring for-profit child care centers in the child care food program;

(B) 1 State in which—

(i) the majority of children for whom child care arrangements are made are being cared for in center-based child care facilities;

(ii) for-profit child care centers and preschools are located throughout the State and serve both rural and urban populations;

(iii) at least ⅓ of the licensed child care centers and preschools operate as for-profit facilities;

(iv) all licensed facilities are subject to identical nutritional requirements for food service that are similar to those required under the child care food program; and

(v) less than 1 percent of child care centers participating in the child care food program receive assistance under title XX of the Social Security Act; and

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[17–74] Section 116(e)(1) of P.L. 103–448, 108 Stat. 4714, Nov. 2, 1994, amended this subparagraph by striking "25 percent of the children served by such organization" and inserting "25 percent of the children enrolled in the organization or 25 percent of the licensed capacity of the organization for children, whichever is less,".

[17–75] Section 243(g)(1)(B)(i) of P.L. 106–224, 114 Stat. 419, June 20, 2000, amended this paragraph by inserting "in" after "subsection".

(C) [17–76] one other State—

(i) with fewer than 60,000 children below 5 years of age;

(ii) that serves more than the national average proportion of children potentially eligible for assistance provided under the Child Care and Development Fund (as indicated in data published by the Department of Health and Human Services in October 1999);

(iii) that exempts all low-income families [17–76A] from cost sharing requirements under programs funded by the Child Care and Development Fund; and

(iv) in which State spending represents more than 50 percent of total expenditures reported for fiscal year 1998 [17–76B] under the Child Care and Development Fund.

(q) [17–77] MANAGEMENT SUPPORT.—

(1) TECHNICAL AND TRAINING ASSISTANCE.—In addition to the training and technical assistance that is provided to State agencies under other provisions of this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), the Secretary shall provide training and technical assistance in order to assist the State agencies in improving their program management and oversight under this section.

(2) [17–78] TECHNICAL AND TRAINING ASSISTANCE FOR IDENTIFICATION AND PREVENTION OF FRAUD AND ABUSE.—As part of training and technical assistance provided under paragraph (1), the Secretary shall provide training on a continuous basis to State agencies, and shall ensure that such training is provided to sponsoring organizations, for the identification and prevention of fraud and abuse under the program and to improve management of the program.

(3) [17–78] FUNDING.—For each of fiscal years 1999 through 2003, the Secretary shall reserve to carry out paragraph (1) $1,000,000 of the amounts made available to carry out this section.

(r) [17–79] PROGRAM FOR AT-RISK SCHOOL CHILDREN.—

(1) DEFINITION OF AT-RISK SCHOOL CHILD.—In this subsection, the term "at-risk school child" means a school child who—

(A) is not more than 18 years of age, except that the age limitation provided by this subparagraph shall not apply to a child described in section 12(d)(1)(A); and

(B) participates in a program authorized under this section operated at a site located in a geographical area

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[17–76] Section 243(g)(1)(B) of P.L. 106–224, 114 Stat. 419, June 20, 2000, added subparagraph (C) and made conforming amendments to subparagraphs (A) and (B). Section 243(g)(2) of P.L. 106–224, 114 Stat. 419, June 20, 2000, provides that the Secretary may carry out demonstration projects in the State described in subparagraph (C) beginning not earlier than October 1, 2001.

[17–76A] Section 307(c)(3)(A) of P.L. 106–472, 114 Stat. 2073, November 9, 2000, amended this clause by striking "all families" and inserting "all low-income families".

[17–76B] Section 307(c)(3)(B) of P.L. 106–472, 114 Stat. 2073, November 9, 2000, amended this clause by striking "made" and inserting "reported for fiscal year 1998".

[17–77] This subsection added by section 107(g) of P.L. 105–336, 112 Stat. 3150, Oct. 31, 1998. Previously, former subsection (q) added by section 116(f) of P.L. 103–448, 108 Stat. 4714, Nov. 2, 1994, and struck by section 708(j) of P.L. 104–193, 110 Stat. 2299, Aug. 22, 1996.

[17–78] Section 243(h) of P.L. 106–224, 114 Stat. 420, June 20, 2000, redesignated former paragraph (2) as paragraph (3) and inserted a new paragraph (2).

[17–79] This subsection added by section 107(h) of P.L. 105–336, 112 Stat. 3150, Oct. 31, 1998.

served by a school in which at least 50 percent of the children enrolled are certified as eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

(2) PARTICIPATION IN CHILD AND ADULT CARE FOOD PROGRAM.—An institution may participate in the program authorized under this section only if the institution provides meals or [17–80] supplements under a program—

(A) organized primarily to provide care to at-risk school children during after-school hours, weekends, or holidays during the regular school year; and

(B) with an educational or enrichment purpose.

(3) ADMINISTRATION.—Except as otherwise provided in this subsection, the other provisions of this section apply to an institution described in paragraph (2).

(4) MEAL AND SUPPLEMENT REIMBURSEMENT.— [17–81]

(A) LIMITATIONS.—An institution may claim reimbursement under this subsection only for one meal per child per day and one supplement per child per day [17–82] served under a program organized primarily to provide care to at-risk school children during after-school hours, weekends, or holidays during the regular school year. [17–83]

(B) [17–84] RATES.—

(i) MEALS.—A meal shall be reimbursed under this subsection at the rate established for free meals under subsection (c).

(ii) SUPPLEMENTS.—A supplement shall be reimbursed under this subsection at the rate established for a free supplement under subsection (c)(3).

(C) NO CHARGE.—A meal or [17–85] supplement claimed for reimbursement under this subsection shall be served without charge.

(5) [17–86] LIMITATION.—The Secretary shall limit reimbursement under this subsection for meals served under a program to institutions located in seven [17–87] States, of which five [17–88] States shall be Illinois, [17–89] Pennsylvania, Missouri, Delaware, and Michigan and two States shall be approved by the Secretary through a competitive application process.

[17–80] Section 243(i)(1) of P.L. 106–224, 114 Stat. 420, June 20, 2000, amended this paragraph by inserting "meals or" before "supplements".

[17–81] Section 243(i)(2)(A) of P.L. 106–224, 114 Stat. 420, June 20, 2000, amended this heading by striking "SUPPLEMENT" and inserting "MEAL AND SUPPLEMENT".

[17–82] Section 243(i)(2)(B)(i) of P.L. 106–224, 114 Stat. 420, June 20, 2000, amended this subparagraph by striking "only for" and all that follows through "(i) a supplement" and inserting "only for one meal per child per day and one supplement per child per day".

[17–83] Section 243(i)(2)(B)(ii) and (iii) of P.L. 106–224, 114 Stat. 420, June 20, 2000, amended this subparagraph by striking "; and" and inserting a period and by striking former clause (ii).

[17–84] Section 243(i)(2)(C) of P.L. 106–224, 114 Stat. 420, June 20, 2000, amended this subparagraph by striking by striking "RATE.—A supplement" and inserting "RATES.—" and all that follows through "(ii) SUPPLEMENTS.—A supplement".

[17–85] Section 243(i)(2)(D) of P.L. 106–224, 114 Stat. 420, June 20, 2000, amended this subparagraph by inserting "meal or" before "supplement".

[17–86] This paragraph added by section 243(i)(3) of P.L. 106–224, 114 Stat. 420, June 20, 2000.

[17–87] Sec. 771(1) of P.L. 107–76, 115 Stat. 745, Nov. 28, 2001, amended paragraph (5) by striking "six" and inserting "seven".

[17–88] Sec. 771(2) of P.L. 107–76, 115 Stat. 745, Nov. 28, 2001, amended paragraph (5) by striking "four" and inserting "five".

[17–89] Sec. 771(3) of P.L. 107–76, 115 Stat. 745, Nov. 28, 2001, amended paragraph (5) by inserting "Illinois," after the first instance of "States shall be".

(s) [17–90] INFORMATION CONCERNING THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.—

(1) IN GENERAL.—The Secretary shall provide each State agency administering a child and adult care food program under this section with information concerning the special supplemental nutrition program for women, infants, and children authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786).

(2) REQUIREMENTS FOR STATE AGENCIES.—Each State agency shall ensure that each participating family and group day care home and child care center (other than an institution providing care to school children outside school hours)—

(A) receives materials that include—

(i) a basic explanation of the importance and benefits of the special supplemental nutrition program for women, infants, and children;

(ii) the maximum State income eligibility standards, according to family size, for the program; and

(iii) information concerning how benefits under the program may be obtained;

(B) receives periodic updates of the information described in subparagraph (A); and

(C) provides the information described in subparagraph (A) to parents of enrolled children at enrollment.

(t) [17–91] PARTICIPATION BY EMERGENCY SHELTERS.—

(1) DEFINITION OF EMERGENCY SHELTER.—In this subsection, the term "emergency shelter" means—

(A) an emergency shelter (as defined in section 321 of the Stewart B. McKinney Homeless Assistance Act [17–92] (42 U.S.C. 11351)); or

(B) a site operated by the shelter.

(2) ADMINISTRATION.—Except as otherwise provided in this subsection, an emergency shelter shall be eligible to participate in the program authorized under this section in accordance with the terms and conditions applicable to eligible institutions described in subsection (a).

(3) LICENSING REQUIREMENTS.—The licensing requirements contained in subsection (a)(1) shall not apply to an emergency shelter.

(4) HEALTH AND SAFETY STANDARDS.—To be eligible to participate in the program authorized under this section, an emergency shelter shall comply with applicable State or local health and safety standards.

(5) MEAL OR SUPPLEMENT REIMBURSEMENT.—

(A) LIMITATIONS.—An emergency shelter may claim reimbursement under this subsection—

(i) only for a meal or supplement served to children residing at an emergency shelter, if the children are—

(I) not more than 12 years of age;

[17–90] This subsection added by section 107(i) of P.L. 105–336, 112 Stat. 3151, Oct. 31, 1998.

[17–91] Effective July 1, 1999, this subsection added by section 107(j)(1) of P.L. 105–336, 112 Stat. 3152, Oct. 31, 1998.

[17–92] Sec. 2 of P.L. 106–400, 114 Stat. 1675, Oct. 30, 2000, provides that any reference in any law, regulation, document, paper, or other record of the United States to the Stewart B. McKinney Homeless Assistance Act shall be deemed to be a reference to the "McKinney-Vento Homeless Assistance Act".

(II) children of migrant workers, if the children are not more than 15 years of age; or

(III) children with disabilities; and

(ii) for not more than 3 meals, or 2 meals and a supplement, per child per day.

(B) RATE.—A meal or supplement eligible for reimbursement shall be reimbursed at the rate at which free meals and supplements are reimbursed under subsection (c).

(C) NO CHARGE.—A meal or supplement claimed for reimbursement shall be served without charge.

SEC. 17A. [17A–1] **[42 U.S.C. 1766a] MEAL SUPPLEMENTS FOR CHILDREN IN AFTERSCHOOL CARE.**

(a) GENERAL AUTHORITY.—

(1) GRANTS TO STATES.—The Secretary shall carry out a program to assist States through grants-in-aid and other means to provide meal supplements under a program organized primarily to provide care for [17A–2] children in afterschool care in eligible elementary and secondary schools.

(2) ELIGIBLE SCHOOLS.—For the purposes of this section, the term "eligible elementary and secondary schools" means schools that—

(A) operate school lunch programs under this Act;

(B) sponsor afterschool care programs; and

(C) [17A–3] operate afterschool programs with an educational or enrichment purpose.

(b) ELIGIBLE CHILDREN.—Reimbursement may be provided under this section only for supplements served to school children who are not more than 18 years of age, except that the age limitation provided by this subsection shall not apply to a child described in section 12(d)(1)(A). [17A–4]

(c) [17A–5] REIMBURSEMENT.—

(1) AT-RISK SCHOOL CHILDREN.—In the case of an eligible child who is participating in a program authorized under this section operated at a site located in a geographical area served by a school in which at least 50 percent of the children enrolled are certified as eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), a supplement provided under this section to the child shall be—

(A) reimbursed at the rate at which free supplements are reimbursed under section 17(c)(3); and

(B) served without charge.

(2) OTHER SCHOOL CHILDREN.—In the case of an eligible child who is participating in a program authorized under this section at a site that is not described in paragraph (1), for the

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[17A–1] Section 17A added by section 106(a) of P.L. 101–147, 103 Stat. 885, Nov. 10, 1989.

[17A–2] Section 108(a)(1) of P.L. 105–336, 112 Stat. 3153, Oct. 31, 1998, amended this paragraph by striking "supplements to" and inserting "supplements under a program organized primarily to provide care for".

[17A–3] Section 108(a)(2) of P.L. 105–336, 112 Stat. 3153, Oct. 31, 1998, amended this subparagraph in its entirety.

[17A–4] Section 108(b) of P.L. 105–336, 112 Stat. 3154, Oct. 31, 1998, amended this subsection by striking "served to children" and all that follows and inserting "served to school children" and all that follows.

[17A–5] Section 108(c) of P.L. 105–336, 112 Stat. 3154, Oct. 31, 1998, amended this subsection by striking "(c) REIMBURSEMENT.—For" and inserting "(c) REIMBURSEMENT.—" and all that follows through "paragraph (1), for" in paragraph (2).

purposes of this section, the national average payment rate for supplements shall be equal to those established under section 17(c)(3) (as adjusted pursuant to section 11(a)(3)).

(d) CONTENTS OF SUPPLEMENTS.—The requirements that apply to the content of meal supplements served under child care food programs operated with assistance under this Act shall apply to the content of meal supplements served under programs operated with assistance under this section.

[SEC. 17B.[17B–1] **[42 U.S.C. 1766b] HOMELESS CHILDREN NUTRITION PROGRAM.]**

PILOT PROJECTS

SEC. 18.[18–1] **[**42 U.S.C. 1769**]** (a)[18–2] The Secretary may conduct pilot projects in not more than three States in which the Secretary is currently administering programs to evaluate the effects of the Secretary contracting with private profit and nonprofit organizations to act as a State agency under this Act and the Child Nutrition Act of 1966[18–3] **[**(42 U.S.C. 1771 et seq.)**]** for schools, institutions, or service institutions referred to in section 10 of this Act and section 5 of the Child Nutrition Act of 1966[18–4] **[**(42 U.S.C. 1774)**]**.

(b)[18–5](1) Upon request to the Secretary, any school district that on January 1, 1987, was receiving all cash payments or all

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[17B–1] Section 17B added by section 117(a)(1) of P.L. 103–448, 108 Stat. 4715, Nov. 2, 1994. Effective July 1, 1999, section 107(j)(2)(C)(i) of P.L. 105–336, 112 Stat. 3153, Oct. 31, 1998, repealed section 17B.

[18–1] This section added as section 20 by section 10 of P.L. 95–166, 91 Stat. 1336, Nov. 10, 1977. Former section 18, which authorized a study to determine State utilization of Federal funds authorized by this Act and the Child Nutrition Act of 1966, repealed by section 371(a)(1) of P.L. 99–500, 100 Stat. 1783–368, Oct. 18, 1986. Section 371(a)(1) of P.L. 99–591, 100 Stat. 3341-371, Oct. 30, 1986, and section 4501(a)(1) of P.L. 99–661, 100 Stat. 4080, Nov. 14, 1986, repealed the same section. Then-section 20 renumbered as section 18 by section 371(c)(1) of P.L. 99–500, 100 Stat. 1783–368, 1783–369, Oct. 18, 1986. Section 371(c)(1) of P.L. 99–591, 100 Stat. 3341–372, Oct. 30, 1986, and section 4501(c)(1) of P.L. 99–661, 100 Stat. 4080, Nov. 14, 1986, made the identical change.

Section 311 of P.L. 101–147, 103 Stat. 916, Nov. 10, 1989, struck former subsections (a), (b), and (c) (relating to executed pilot projects) and redesignated the suceeding subsections accordingly.

Section 109(a) of P.L. 105–336, 112 Stat. 3154, Oct. 31, 1998, struck former subsections (c), (e), (g), and (h). Section 109(c)(1) of P.L. 105–336, 112 Stat. 3156, Oct. 31, 1998, redesignated former subsections (d), (f), and (i) as subsections (c), (d), and (e), respectively..

Former subsection (c) added by section 117(b) of P.L. 103–448, 108 Stat. 4717, Nov. 2, 1994. Previously, former subsection (c) added by section 107(2) of P.L. 101–147, 103 Stat. 886, Nov. 10, 1989; redesignated by section 311(1) of P.L. 101–147, 103 Stat. 886, Nov. 10, 1989; amended by section 101(a) of P.L. 102–342, 106 Stat. 911, Aug. 14, 1992 and section 102 of P.L. 102–512, Oct. 24, 1992; and struck by section 117(a)(2)(A) of P.L. 103–448, 108 Stat. 4717, Nov. 2, 1994.

Former subsection (e) added by section 118(b) of P.L. 103–448, 108 Stat. 4719, Nov. 2, 1994, and amended by section 709(b) of P.L. 104–193, 110 Stat. 2301, Aug. 22, 1996.

Former subsection (g) added by section 118(d) of P.L. 103–448, 108 Stat. 4721, Nov. 2, 1994.

Former subsection (h) added by section 118(e) of P.L. 103–448, 108 Stat. 4722, Nov. 2, 1994.

Section 101(b) of P.L. 102–342 (42 U.S.C. 1769 note) permits the Secretary of Agriculture to conduct demonstration projects to identify effective means of providing food assistance to homeless children residing in temporary shelters.

[18–2] Former subsection (d) dealing with the same subject matter completely revised by section 327(a) of P.L. 99–500, 100 Stat. 1783–362, Oct. 18, 1986. Section 327(a) of P.L. 99–591, 100 Stat. 3341–365, Oct. 30, 1986, and section 4207(a) of P.L. 99–661, 100 Stat. 4073, Nov. 14, 1986, made same revision.

Section 311(1) of P.L. 101–147, 103 Stat. 916, Nov. 10, 1989, redesignated this subsection as subsection (a).

[18–3] Section 311(2) of P.L. 101–147, 103 Stat. 916, Nov. 10, 1989, amended this subsection by striking "(42 U.S.C. 1771 et seq.)".

[18–4] Section 311(2) of P.L. 101–147, 103 Stat. 916, Nov. 10, 1989, amended this subsection by striking "(42 U.S.C. 1774)".

[18–5] This subsection added by section 5 of P.L. 100–237, 101 Stat. 1739, Jan. 8, 1988.

commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program beginning July 1, 1987.[18–6] The Secretary, directly or through contract, shall administer the project under this subsection.[18–7]

(2) Any school district that elects under paragraph (1) to receive all cash payments or all commodity letters of credit in lieu of entitlement commodities for its school lunch program shall receive bonus commodities in the same manner as if such school district was receiving all entitlement commodities for its school lunch program.

(c)[18–8](1)(A) The Secretary shall carry out a pilot program for purposes of identifying alternatives to—

(i) daily counting by category of meals provided by school lunch programs under this Act; and

(ii) annual applications for eligibility to receive free meals or reduced price meals.

(B) For the purposes of carrying out the pilot program under this paragraph, the Secretary may waive requirements of this Act relating to counting of meals provided by school lunch programs and applications for eligibility.

(C) For the purposes of carrying out the pilot program under this paragraph, the Secretary shall solicit proposals from State educational agencies and local educational agencies for the alternatives described in subparagraph (A).

(2)(A) The Secretary shall carry out a pilot program under which a limited number of schools participating in the special assistance program under section 11(a)(1) that have in attendance children at least 80 percent of whom are eligible for free lunches or reduced price lunches shall submit applications for a 3-year period.

(B) Each school participating in the pilot program under this paragraph shall have the option of determining the number of free meals, reduced price meals, and paid meals provided daily under the school lunch program operated by such school by applying percentages determined under subparagraph (C) to the daily total student meal count.

(C) The percentages determined under this subparagraph shall be established on the basis of the master roster of students enrolled in the school concerned, which—

(i) shall include a notation as to the eligibility status of each student with respect to the school lunch program; and

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Section 311(1) of P.L. 101–147, 103 Stat. 916, Nov. 10, 1989, redesignated this subsection as subsection (b).

[18–6] Section 107(1)(A) of P.L. 101–147, 103 Stat. 886, Nov. 10, 1989, amended this paragraph by striking "for the duration beginning July 1, 1987, and ending December 31, 1990" and inserting "beginning July 1, 1987, and ending September 30, 1992". Section 301 of P.L. 102–342, 106 Stat. 911, Aug. 14, 1992, amended this paragraph by striking "September 30, 1992" and inserting "September 30, 1994". Section 118(a) of P.L. 103–448, 108 Stat. 4719, Nov. 2, 1994, amended this paragraph by striking ", and ending September 30, 1994".

[18–7] This sentence added by section 107(1)(B) of P.L. 101–147, 103 Stat. 886, Nov. 10, 1989.

[18–8] This subsection added by section 205(a) of P.L. 101–147, 103 Stat. 910, Nov. 10, 1989, and redesignated by section 109(c)(1) of P.L. 105–336, 112 Stat. 3156, Oct. 31, 1998.

Section 311(1) of P.L. 101–147, 103 Stat. 916, Nov. 10, 1989, redesignated this subsection as subsection (d).

(ii) shall be updated not later than September 30 of each year.

(3)[18–9] In addition to the pilot projects described in this subsection, the Secretary may conduct other pilot projects to test alternative counting and claiming procedures.

(4) Each pilot program carried out under this subsection shall be evaluated by the Secretary after it has been in operation for 3 years.

(d)[18–10](1) Subject to the availability of appropriations to carry out this subsection, the Secretary shall establish pilot projects in at least 25 school districts under which the milk offered by schools meets the fortification requirements of paragraph (3) for lowfat, skim, and other forms of fluid milk.

(2) The Secretary shall make available to school districts information that compares the nutritional benefits of fluid milk that meets the fortification requirements of paragraph (3) and the nutritional benefits of other milk that is made available through the school lunch program established under this Act.

(3) The fortification requirements for fluid milk for the pilot project referred to in paragraph (1) shall provide that—

(A) all whole milk in final package form for beverage use shall contain not less than—

(i) 3.25 percent milk fat; and

(ii) 8.7 percent milk solids not fat;

(B) all lowfat milk in final package form for beverage use shall contain not less than 10 percent milk solids not fat; and

(C) all skim milk in final package form for beverage use shall contain not less than 9 percent milk solids not fat.

(4)(A) In selecting where to establish pilot projects under this subsection, the Secretary shall take into account, among other factors, the availability of fortified milk and the interest of the school district in being included in the pilot project.

(B) The Secretary shall establish the pilot projects in as many geographic areas as practicable, except that none of the projects shall be established in school districts that use milk described in paragraph (3) or similar milk.

(5) Not later than 2 years after the establishment of the first pilot project under this subsection, the Secretary shall report to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on—

(A) the acceptability of fortified whole, lowfat, and skim milk products to participating children;

(B) the impact of offering the milk on milk consumption;

(C) the views of the school food service authorities on the pilot projects; and

(D) any increases or reductions in costs attributed to the pilot projects.

(6) The Secretary shall—

(A) obtain copies of any research studies or papers that discuss the impact of the fortification of milk pursuant to standards established by the States; and

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[18–9] Section 709(a) of P.L. 104–193, 110 Stat. 2301, Aug. 22, 1996, amended this subsection by striking former paragraph (3) and by redesignating former paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

[18–10] This subsection added by section 118(c) of P.L. 103–448, 108 Stat. 4720, Nov. 2, 1994, and redesignated by section 109(c)(1) of P.L. 105–336, 112 Stat. 3156, Oct. 31, 1998.

(B) on request, make available to State agencies and the public—

(i) the information obtained under subparagraph (A); and

(ii) information about where to obtain milk described in paragraph (3).

(7)(A) Each pilot project established under this subsection shall terminate on the last day of the third year after the establishment of the pilot project.

(B) The Secretary shall advise representatives of each district participating in a pilot project that the district may continue to offer the fortified forms of milk described in paragraph (3) after the project terminates.

(e) [18–11] BREAKFAST PILOT PROJECTS.—

(1) IN GENERAL.—Subject to the availability of funds made available under paragraph (10), for a period of 3 successive school years, the Secretary shall make grants to State agencies to conduct pilot projects in elementary schools under the jurisdiction of not more than 6 school food authorities approved by the Secretary to—

(A) reduce paperwork, simplify meal counting requirements, and make changes that will increase participation in the school breakfast program; and

(B) evaluate the effect of providing free breakfasts to elementary school children, without regard to family income, on participation, academic achievement, attendance and tardiness, and dietary intake over the course of a day.

(2) NOMINATIONS.—A State agency that seeks a grant under this subsection shall submit to the Secretary nominations of school food authorities to participate in a pilot project under this subsection

(3) APPROVAL.—The Secretary shall approve for participation in pilot projects under this subsection elementary schools under the jurisdiction of not more than 6 nominated school food authorities selected so as to—

(A) provide for an equitable distribution of pilot projects among urban and rural elementary schools;

(B) provide for an equitable distribution of pilot projects among elementary schools of varying family income levels; and

(C) permit the evaluation of pilot projects to distinguish the effects of the pilot projects from other factors, such as changes or differences in educational policies or programs.

(4) GRANTS TO SCHOOL FOOD AUTHORITIES.—A State agency receiving a grant under paragraph (1) shall make grants to school food authorities to conduct the pilot projects described in paragraph (1).

(5) DURATION OF PILOT PROJECTS.—Subject to the availability of funds made available to carry out this subsection, a school food authority receiving amounts under a grant to conduct a pilot project described in paragraph (1) shall conduct the project during a period of 3 successive school years.

[18–11] This subsection amended in its entirety by section 109(b) of P.L. 105–336, 112 Stat. 3154, Oct. 31, 1998, and redesignated by section 109(c)(1) of P.L. 105–336, 112 Stat. 3156, Oct. 31, 1998. Former subsection (i) added by section 118(f) of P.L. 103–448, 108 Stat. 4723, Nov. 2, 1994.

(6) WAIVER AUTHORITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may waive the requirements of this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) relating to counting of meals, applications for eligibility, and related requirements that would preclude the Secretary from making a grant to conduct a pilot project under paragraph (1).

(B) NONWAIVABLE REQUIREMENTS.—The Secretary may not waive a requirement under subparagraph (A) if the waiver would prevent a program participant, a potential program participant, or a school from receiving all of the benefits and protections of this Act, the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.), or a Federal law (including a regulation) that protects an individual constitutional right or a statutory civil right.

(7) REQUIREMENTS FOR PARTICIPATION IN PILOT PROJECT.—To be eligible to participate in a pilot project under this subsection—

(A) a State agency—

(i) shall submit an application to the Secretary at such time and in such manner as the Secretary shall establish to meet criteria the Secretary has established to enable a valid evaluation to be conducted; and

(ii) shall provide such information relating to the operation and results of the pilot project as the Secretary may reasonably require; and

(B) a school food authority—

(i) shall agree to serve all breakfasts at no charge to all children enrolled in participating elementary schools;

(ii) shall not have a history of violations of this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

(iii) shall have, under the jurisdiction of the school food authority, a sufficient number of elementary schools that are not participating in the pilot projects to permit a valid evaluation of the effects of the pilot projects; and

(iv) shall meet all other requirements that the Secretary may reasonably require.

(8) EVALUATION OF PILOT PROJECTS.—

(A) IN GENERAL.—The Secretary, acting through the Administrator of the Food and Nutrition Service, shall conduct an evaluation of the pilot projects conducted by the school food authorities selected for participation.

(B) CONTENT.—The evaluation shall include—

(i) a determination of the effect of participation in the pilot project on the academic achievement, attendance and tardiness, and dietary intake over the course of a day of participating children that is not attributable to changes in educational policies and practices; and

(ii) a determination of the effect that participation by elementary schools in the pilot project has on the

proportion of students who eat breakfast and on the paperwork required to be completed by the schools.

(C) REPORT.—On completion of the pilot projects and the evaluation, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the evaluation of the pilot projects required under subparagraph (A).

(9) REIMBURSEMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a school conducting a pilot project under this subsection shall receive a total Federal reimbursement under the school breakfast program in an amount that is equal to the total Federal reimbursement for the school for the prior year under the program (adjusted to reflect changes in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor and adjusted for fluctuations in enrollment).

(B) EXCESS NEEDS.—Funds required for the pilot project in excess of the level of reimbursement received by the school for the prior year (adjusted to reflect changes described in subparagraph (A) and adjusted for fluctuations in enrollment) may be taken from any non-Federal source or from amounts provided under this subsection.

(10) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(B) REQUIREMENT.—No amounts may be provided under this subsection unless specifically provided in appropriations Acts.

(f) [18–12] SUMMER FOOD PILOT PROJECTS.—

(1) DEFINITION OF ELIGIBLE STATE.—In this subsection, the term "eligible State" means a State in which (based on data available in July 2000)—

(A) the percentage obtained by dividing—

(i) the sum of—

(I) the average daily number of children attending the summer food service program in the State in July 1999; and

(II) the average daily number of children receiving free or reduced price meals under the school lunch program in the State in July 1999; by

(ii) the average daily number of children receiving free or reduced price meals under the school lunch program in the State in March 1999; is less than 50 percent of

(B) the percentage obtained by dividing—

(i) the sum of—

(I) the average daily number of children attending the summer food service program in all States in July 1999; and

[18–12] This subsection added by section 102(a) of division B of the Miscellaneous Appropriations Act, 2001 (Public Law 106–554, 114 Stat. 2763, 2763A–215, Dec. 21, 2000).

(II) the average daily number of children receiving free or reduced price meals under the school lunch program in all States in July 1999; by

(ii) the average daily number of children receiving free or reduced price meals under the school lunch program in all States in March 1999.

(2) PILOT PROJECTS.—During the period of fiscal years 2001 through 2003, the Secretary shall carry out a summer food pilot project in each eligible State to increase the number of children participating in the summer food service program in the State.

(3) SUPPORT LEVELS FOR SERVICE INSTITUTIONS.—

(A) FOOD SERVICE.—Under the pilot project, a service institution (other than a service institution described in section 13(a)(7)) in an eligible State shall receive the maximum amounts for food service under section 13(b)(1) without regard to the requirement under section 13(b)(1)(A) that payments shall equal the full cost of food service operations.

(B) ADMINISTRATIVE COSTS.—Under the pilot project, a service institution (other than a service institution described in section 13(a)(7)) in an eligible State shall receive the maximum amounts for administrative costs determined by the Secretary under section 13(b)(4) without regard to the requirement under section 13(b)(3) that payments to service institutions shall equal the full amount of State-approved administrative costs incurred.

(C) COMPLIANCE.—A service institution that receives assistance under this subsection shall comply with all provisions of section 13 other than subsections (b)(1)(A) and (b)(3) of section 13.

(4) MAINTENANCE OF EFFORT.—Expenditures of funds from State and local sources for maintenance of a summer food service program shall not be diminished as a result of assistance from the Secretary received under this subsection.

(5) EVALUATION OF PILOT PROJECTS.—

(A) IN GENERAL.—The Secretary, acting through the Administrator of the Food and Nutrition Service, shall conduct an evaluation of the pilot project.

(B) CONTENT.—An evaluation under this paragraph shall describe—

(i) any effect on participation by children and service institutions in the summer food service program in the eligible State in which the pilot project is carried out;

(ii) any effect of the pilot project on the quality of the meals and supplements served in the eligible State in which the pilot project is carried out; and

(iii) any effect of the pilot project on program integrity.

(6) REPORTS.—

(A) INTERIM REPORT.—Not later than December 1, 2002, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an interim report that describes the status of, and any progress made by, each pilot project being car-

ried out under this subsection as of the date of submission of the report.

(B) FINAL REPORT.—Not later than April 30, 2004, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a final report that includes—

(i) the evaluations completed by the Secretary under paragraph (5); and

(ii) any recommendations of the Secretary concerning the pilot projects.

(g) [18–13] FRUIT AND VEGETABLE PILOT PROGRAM.—

(1) IN GENERAL.—In the school year beginning July 2002, the Secretary shall carry out a pilot program to make available to students in 25 elementary or secondary schools in each of 4 States, and in elementary or secondary schools on 1 Indian reservation, free fresh and dried fruits and fresh vegetables throughout the school day in 1 or more areas designated by the school.

(2) PUBLICITY.—A school that participates in the pilot program shall widely publicize within the school the availability of free fruits and vegetables under the pilot program.

(3) REPORT.—Not later than May 1, 2003, the Secretary, acting through the Administrator of the Economic Research Service, shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the results of the pilot program.

(4) FUNDING.—The Secretary shall use not more than $6,000,000 of funds made available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to carry out this subsection (other than paragraph (3)).

[SEC. 19. [19–1] **[42 U.S.C. 1769a] REDUCTION OF PAPERWORK.]**

DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS

SEC. 20. [20–1] **[**42 U.S.C. 1769b**]** (a) For the purpose of obtaining Federal payments and commodities in conjunction with the provi-

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[18–13] Subsec. (g) added by sec. 4305(a) of P.L. 107–171, 116 Stat. 332, May 13, 2002.

[19–1] This section added as section 21 by P.L. 95–166, 91 Stat. 1338, Nov. 10, 1977, completely revised by section 108 of P.L. 101–147, 103 Stat. 887, Nov. 10, 1989, amended by section 119 of P.L. 103–448, 108 Stat. 4726, Nov. 2, 1994, and repealed by section 710 of P.L. 104–193, 110 Stat. 2301, Aug. 22, 1996. Former section 19, which authorized appropriations for the Trust Territory of the Pacific Islands to conduct developmental and experimental projects under this Act and the Child Nutrition Act of 1966, was repealed by section 371(a)(1) of P.L. 99–500, 100 Stat. 1783–368, Oct. 18, 1986. Section 371(a) of P.L. 99–591, 100 Stat. 3341–371, Oct. 30, 1986, and section 4501(a)(1) of P.L. 99–661, 100 Stat. 4080, Nov. 14, 1986, made the identical change. Then-section 21 renumbered as section 19 by section 371(c)(1) of P.L. 99–500, 100 Stat. 1783–368, 1783–369, Oct. 18, 1986. Section 371(c)(1) of P.L. 99–591, 100 Stat. 3341–372, Oct. 30, 1986, and section 4501(c)(1) of P.L. 99–661, 100 Stat. 4080, Nov. 14, 1986, made the identical change.

[20–1] This section added as section 22 by section 1408(a) of P.L. 95–561, 92 Stat. 2368, Nov. 1, 1978. Former section 20 renumbered section 18. See note 18–1. Then-section 22 renumbered as section 20 by section 371(c)(1) of P.L. 99–500, 100 Stat. 1783–368, 1783–369, Oct. 18, 1986. Section 371(c)(1) of P.L. 99–591, 100 Stat. 3341–372, Oct. 30, 1986, and section 4501(c)(1) of P.L. 99–661, 100 Stat. 4080, Nov. 14, 1986, made the identical change.

Section 2243(b) of title 10, United States Code, provides authority to use appropriated funds to support student meal programs in Department of Defense overseas dependent schools, but provides that the authority may be used only if the Secretary of Defense determines that Federal payments and commodities provided under this section and section

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sion of lunches to students attending Department of Defense dependents' schools which are located outside the United States, its territories or possessions, the Secretary of Agriculture shall make available to the Department of Defense, from funds appropriated for such purpose, the same payments and commodities as are provided to States for schools participating in the National School Lunch Program in the United States.

(b) The Secretary of Defense shall administer lunch programs authorized by this section and shall determine eligibility for free and reduced price lunches under the criteria published by the Secretary of Agriculture, except that the Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of students participating in the National School Lunch Program under this section.

(c) The Secretary of Defense shall be required to offer meals meeting nutritional standards prescribed by the Secretary of Agriculture; however, the Secretary of Defense may authorize deviations from Department of Agriculture prescribed meal patterns and fluid milk requirements when local conditions preclude strict compliance or when such compliance is impracticable.

(d) Funds are hereby authorized to be appropriated for any fiscal year in such amounts as may be necessary for the administrative expenses of the Department of Defense under this section.[20–2]

(e) The Secretary of Agriculture shall provide the Secretary of Defense with the technical assistance in the administration of the school lunch programs authorized by this section.

SEC. 21.[21–1] **[42 U.S.C. 1769b–1] TRAINING, TECHNICAL ASSISTANCE, AND FOOD SERVICE MANAGEMENT INSTITUTE.**

(a) GENERAL AUTHORITY.—The Secretary—

(1) subject to the availability of, and from,[21–2] amounts appropriated pursuant to subsection (e)(1), shall conduct training activities and provide technical assistance to improve the skills of individuals employed in—

(A) food service programs carried out with assistance under this Act;

(B) school breakfast programs carried out with assistance under section 4 of the Child Nutrition Act of 1966; and

(C) as appropriate, other federally assisted feeding programs; and

(2)[21–3] from amounts appropriated pursuant to subsection (e)(2), is authorized to provide financial and other assistance to

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20 of the Child Nutrition Act of 1966 (42 U.S.C. 1789) to support an overseas meal program are insufficient to meet a specified standard.

[20–2] Remainder of subsection deleted by section 328(a) of P.L. 99–500, 100 Stat. 1783–362, Oct. 19, 1986. Section 328(a) of P.L. 99–591, 100 Stat. 3341–365, Oct. 30, 1986, and section 4208(a) of P.L. 99–661, 100 Stat. 4073, Nov. 14, 1986, made the same change.

[21–1] Section 21 added by section 109 of P.L. 101–147, 103 Stat. 887, Nov. 10, 1989. Former section 21 renumbered as section 19. See note 19–1.

Section 19(d)(4) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(d)(4)) requires the Secretary to make nutrition information and training grants to certain organizations and agencies, for the training of educational and school food service personnel, in coordination with activities authorized under this section.

[21–2] Section 120(c)(1) of P.L. 103–448, 108 Stat. 4726, Nov. 2, 1994, amended this paragraph by striking "from" and inserting "subject to the availability of, and from,".

[21–3] Section 19(d)(1)(B) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(d)(1)(B)) permits the Secretary to formulate and carry out a nutrition information and education program, through a system of grants to State educational agencies, to provide for training school food service personnel in the principles and practices of food service management,

the University of Mississippi, in cooperation with the University of Southern Mississippi,[21–4] to establish and maintain a food service management institute.

(b) MINIMUM REQUIREMENTS.—The activities conducted and assistance provided as required by subsection (a)(1) shall at least include activities and assistance with respect to—

(1) menu planning;

(2) implementation of regulations and appropriate guidelines; and

(3) compliance with program requirements and accountability for program operations.

(c) DUTIES OF FOOD SERVICE MANAGEMENT INSTITUTE.—

(1) IN GENERAL.—Any food service management institute established as authorized by subsection (a)(2) shall carry out activities to improve the general operation and quality of—

(A) food service programs assisted under this Act;

(B) school breakfast programs assisted under section 4 of the Child Nutrition Act of 1966; and

(C) as appropriate, other federally assisted feeding programs.

(2) REQUIRED ACTIVITIES.—Activities carried out under paragraph (1) shall include—

(A) conducting research necessary to assist schools and other organizations that participate in such programs in providing high quality, nutritious, cost-effective meal service to the children served;

(B) providing training and technical assistance with respect to—

(i) efficient use of physical resources;

(ii) financial management;

(iii) efficient use of computers;

(iv) procurement;

(v) sanitation;

(vi) safety;

(vii) food handling;

(viii) meal planning and related nutrition activities;[21–5]

(ix)[21–5] culinary skills; and

(x)[21–5] other appropriate activities;

(C) establishing a national network of trained professionals to present training programs and workshops for food service personnel;

(D) developing training materials for use in the programs and workshops described in subparagraph (C);[21–6]

(E) acting as a clearinghouse for research, studies, and findings concerning all aspects of the operation of food service programs, including activities carried out with as-

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in cooperation with materials developed at any food service management institute established as authorized by this paragraph.

[21–4] Section 1 of P.L. 102–337, Aug. 7, 1992, amended section 21(a)(2) by inserting after "is authorized" the following: "to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippi,".

[21–5] Section 120(a)(1) of P.L. 103–448, 108 Stat. 4726, Nov. 2, 1994, amended this subparagraph by striking "and" at the end of clause (viii), by redesignating former clause (ix) as clause (x), and inserting new clause (ix).

[21–6] Paragraphs (2) through (4) of section 120(a)(2) of P.L. 103–448, 108 Stat. 4726, Nov. 2, 1994, amended this paragraph by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a semicolon, and by adding subparagraphs (F) through (H).

sistance provided under section 19 of the Child Nutrition Act of 1966;[21–6]

(F)[21–6] training food service personnel to comply with the nutrition guidance and objectives established by the Secretary[21–7] through a national network of instructors or other means;

(G)[21–8] preparing informational materials, such as video instruction tapes and menu planners, to promote healthier food preparation; and

(H)[21–8] assisting State educational agencies in providing additional nutrition and health instructions and instructors, including training personnel to comply with the nutrition guidance and objectives established by the Secretary.[21–9]

(d) COORDINATION.—

(1) IN GENERAL.—The[21–10] Secretary shall coordinate activities carried out and assistance provided as required by subsection (b) with activities carried out by any food service management institute established as authorized by subsection (a)(2).

(2)[21–11] USE OF INSTITUTE FOR DIETARY AND NUTRITION ACTIVITIES.—The Secretary shall use any food service management institute established under subsection (a)(2) to assist in carrying out dietary and nutrition activities of the Secretary.

(e)[21–12] AUTHORIZATION OF APPROPRIATIONS.—

(1) TRAINING ACTIVITIES AND TECHNICAL ASSISTANCE.—There are authorized to be appropriated to carry out subsection (a)(1) $3,000,000 for fiscal year 1990, $2,000,000 for fiscal year 1991, and $1,000,000 for each of fiscal years 1992 through 2003.[21–13]

(2) FOOD SERVICE MANAGEMENT INSTITUTE.—

(A) FUNDING.—In addition to any amounts otherwise made available for fiscal year 1995, out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall provide to the Secretary $147,000 for fiscal year 1995, $2,000,000 for each of fiscal years 1996 through 1998, and $3,000,000 for fiscal year 1999 and each subsequent fiscal year,[21–14] to carry out subsection (a)(2). The Secretary shall be entitled to receive the funds and shall accept the funds, without further appropriation.[21–15]

[21–7] Section 110(a) of P.L. 105–336, 112 Stat. 3157, Oct. 31, 1998, amended this paragraph by striking "of section 24" each place it appears in subparagraphs (F) and (H) and inserting "established by the Secretary".

[21–8] See note 21–6.

[21–9] See note 21–7.

[21–10] Section 120(b)(1) of P.L. 103–448, 108 Stat. 4726, Nov. 2, 1994, amended this subsection by striking "(d) COORDINATION.—The" and inserting "(d)" and all that follows through "(1) IN GENERAL.—The".

[21–11] This paragraph added by section 120(b)(2) of P.L. 103–448, 108 Stat. 4726, Nov. 2, 1994.

[21–12] This subsection completely revised by section 120(c)(2) of P.L. 103–448, 108 Stat. 4726, Nov. 2, 1994.

[21–13] Section 110(b) of P.L. 105–336, 112 Stat. 3157, Oct. 31, 1998, amended this paragraph by striking "1998" and inserting "2003".

[21–14] Section 110(c) of P.L. 105–336, 112 Stat. 3157, Oct. 31, 1998, amended this sentence by striking "and $2,000,000 for fiscal year 1996 and each subsequent fiscal year," and inserting "$2,000,000 for each of fiscal years 1996 through 1998, and $3,000,000 for fiscal year 1999 and each subsequent fiscal year,".

[21–15] Section 103(c)(2) of P.L. 105–336, 112 Stat. 3147, Oct. 31, 1998, amended this sentence by inserting at the end before the period ", without further appropriation".

(B) ADDITIONAL FUNDING.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated to carry out subsection (a)(2) such sums as are necessary for fiscal year 1995 and each subsequent fiscal year. The Secretary shall carry out activities under subsection (a)(2), in addition to the activities funded under subparagraph (A), to the extent provided for, and in such amounts as are provided for, in advance in appropriations Acts.

(C) FUNDING FOR EDUCATION, TRAINING, OR APPLIED RESEARCH OR STUDIES.—In addition to amounts made available under subparagraphs (A) and (B), from amounts otherwise appropriated to the Secretary in discretionary appropriations, the Secretary may provide funds to any food service management institute established under subsection (a)(2) for projects specified by the Secretary that will contribute to implementing dietary or nutrition initiatives. Any additional funding under this subparagraph shall be provided noncompetitively in a separate cooperative agreement.

SEC. 22.[22–1] **[42 U.S.C. 1769c] COMPLIANCE AND ACCOUNTABILITY.**

(a) UNIFIED ACCOUNTABILITY SYSTEM.—There shall be a unified system prescribed and administered by the Secretary for ensuring that local food service authorities that participate in the school lunch program under this Act comply with the provisions of this Act. Such system shall be established through the publication of regulations and the provision of an opportunity for public comment, consistent with the provisions of section 553 of title 5, United States Code.

(b) FUNCTIONS OF SYSTEM.—

(1) IN GENERAL.—Under the system described in subsection (a), each State educational agency shall—

(A) require that local food service authorities comply with the provisions of this Act; and

(B) ensure such compliance through reasonable audits and supervisory assistance reviews.

(2) MINIMIZATION OF ADDITIONAL DUTIES.—Each State educational agency shall coordinate the compliance and accountability activities described in paragraph (1) in a manner that minimizes the imposition of additional duties on local food service authorities.

(c) ROLE OF SECRETARY.—In carrying out this section, the Secretary shall—

(1) assist the State educational agency in the monitoring of programs conducted by local food service authorities; and

(2) through management evaluations, review the compliance of the State educational agency and the local school food service authorities with regulations issued under this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out the compliance and ac-

[22–1] Section 22 added by section 110(a) of P.L. 101–147, 103 Stat. 889, Nov. 10, 1989. Former section 22 renumbered section 20. See note 20–1. Another section titled section 22, which required the Secretary to study the cost and feasibility of requiring a choice of menu items, added by section 9 of P.L. 95–627, 92 Stat. 3623, Nov. 10, 1978. This section repealed by section 371(b) of P.L. 99–500, 100 Stat. 1783–368, Oct. 18, 1986. Section 371(b) of P.L. 99–591, 100 Stat. 3341–372, Oct. 30, 1986, and section 4501(b) of P.L. 99–661, 100 Stat. 4080, Nov. 14, 1986, made the same change.

countability activities referred to in subsection (c) $3,000,000 for each of the fiscal years 1994 through 2003. [22–2]

[SEC. 23. [23–1] **[42 U.S.C. 1769d] INFORMATION ON INCOME ELIGIBILITY.]**

[SEC. 24. [24–1] **[42 U.S.C. 1769e] NUTRITION GUIDANCE FOR CHILD NUTRITION PROGRAMS.]**

SEC. 25. [25–1] **[42 U.S.C. 1769f] DUTIES OF THE SECRETARY RELATING TO NONPROCUREMENT DEBARMENT.**

(a) PURPOSES.—The purposes of this section are to promote the prevention and deterrence of instances of fraud, bid rigging, and other anticompetitive activities encountered in the procurement of products for child nutrition programs by—

(1) establishing guidelines and a timetable for the Secretary to initiate debarment proceedings, as well as establishing mandatory debarment periods; and

(2) providing training, technical advice, and guidance in identifying and preventing the activities.

(b) DEFINITIONS.—As used in this section:

(1) [25–2] CHILD NUTRITION PROGRAM.—The term "child nutrition program" means—

(A) the school lunch program established under this Act;

(B) the summer food service program for children established under section 13;

(C) the child and adult care food program established under section 17;

(D) the special milk program established under section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772);

(E) the school breakfast program established under section 4 of such Act (42 U.S.C. 1773); and

(F) the special supplemental nutrition program for women, infants, and children authorized under section 17 of such Act (42 U.S.C. 1786).

(2) CONTRACTOR.—The term "contractor" means a person that contracts with a State, an agency of a State, or a local agency to provide goods or services in relation to the participation of a local agency in a child nutrition program.

(3) LOCAL AGENCY.—The term "local agency" means a school, school food authority, child care center, sponsoring orga-

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[22–2] Section 121 of P.L. 103–448, 108 Stat. 4727, Nov. 2, 1994, amended this subsection by striking "1990, 1991, 1992, 1993, and 1994" and inserting "1994 through 1996". Section 111 of P.L. 105–336, 112 Stat. 3157, Oct. 31, 1998, amended this subsection by striking "1996" and inserting "2003".

[23–1] Section 23 added by section 111 of P.L. 101–147, 103 Stat. 890, Nov. 10, 1989, and repealed by section 711 of P.L. 104–193, 110 Stat. 2301, Aug. 22, 1996.

[24–1] Section 24 added by section 112 of P.L. 101–147, 103 Stat. 890, Nov. 10, 1989, and repealed by section 712 of P.L. 104–193, 110 Stat. 2301, Aug. 22, 1996..

[25–1] Section 25 added by section 122(a) of P.L. 103–448, 108 Stat. 4727, Nov. 2, 1994. Section 122(b) of P.L. 103–448, 108 Stat. 4730, Nov. 2, 1994, provides that this section shall not apply to a cause for debarment as described in subsection (d)(2) that is based on an activity that took place prior to the effective date of this section.

Section 122(c) of P.L. 103–448, 108 Stat. 4731, Nov. 2, 1994, provides that the authority of the Secretary that exists on the day before the date of enactment of P.L. 103–448 to debar or suspend a person from Federal financial and nonfinancial assistance and benefits under Federal programs and activities shall not be diminished or reduced by this section.

[25–2] Effective July 1, 1999, section 107(j)(2)(C)(ii) of P.L. 105–336, 112 Stat. 3153, Oct. 31, 1998, amended this paragraph by striking former subparagraph (D) and by redesignating former subparagraphs (E) through (G) as subparagraphs (D) through (F), respectively.

nization, or other entity authorized to operate a child nutrition program at the local level.

(4) NONPROCUREMENT DEBARMENT.—The term "nonprocurement debarment" means an action to bar a person from programs and activities involving Federal financial and nonfinancial assistance, but not including Federal procurement programs and activities.

(5) PERSON.—The term "person" means any individual, corporation, partnership, association, cooperative, or other legal entity, however organized.

(c) ASSISTANCE TO IDENTIFY AND PREVENT FRAUD AND ANTICOMPETITIVE ACTIVITIES.—The Secretary shall—

(1) in cooperation with any other appropriate individual, organization, or agency, provide advice, training, technical assistance, and guidance (which may include awareness training, training films, and troubleshooting advice) to representatives of States and local agencies regarding means of identifying and preventing fraud and anticompetitive activities relating to the provision of goods or services in conjunction with the participation of a local agency in a child nutrition program; and

(2) provide information to, and fully cooperate with, the Attorney General and State attorneys general regarding investigations of fraud and anticompetitive activities relating to the provision of goods or services in conjunction with the participation of a local agency in a child nutrition program.

(d) NONPROCUREMENT DEBARMENT.—

(1) IN GENERAL.—Except as provided in paragraph (3) and subsection (e), not later than 180 days after notification of the occurrence of a cause for debarment described in paragraph (2), the Secretary shall initiate nonprocurement debarment proceedings against the contractor who has committed the cause for debarment.

(2) CAUSES FOR DEBARMENT.—Actions requiring initiation of nonprocurement debarment pursuant to paragraph (1) shall include a situation in which a contractor is found guilty in any criminal proceeding, or found liable in any civil or administrative proceeding, in connection with the supplying, providing, or selling of goods or services to any local agency in connection with a child nutrition program, of—

(A) an anticompetitive activity, including bid-rigging, price-fixing, the allocation of customers between competitors, or other violation of Federal or State antitrust laws;

(B) fraud, bribery, theft, forgery, or embezzlement;

(C) knowingly receiving stolen property;

(D) making a false claim or statement; or

(E) any other obstruction of justice.

(3) EXCEPTION.—If the Secretary determines that a decision on initiating nonprocurement debarment proceedings cannot be made within 180 days after notification of the occurrence of a cause for debarment described in paragraph (2) because of the need to further investigate matters relating to the possible debarment, the Secretary may have such additional time as the Secretary considers necessary to make a decision, but not to exceed an additional 180 days.

(4) MANDATORY CHILD NUTRITION PROGRAM DEBARMENT PERIODS.—

(A) IN GENERAL.—Subject to the other provisions of this paragraph and notwithstanding any other provision of law except subsection (e), if, after deciding to initiate nonprocurement debarment proceedings pursuant to paragraph (1), the Secretary decides to debar a contractor, the debarment shall be for a period of not less than 3 years.

(B) PREVIOUS DEBARMENT.—If the contractor has been previously debarred pursuant to nonprocurement debarment proceedings initiated pursuant to paragraph (1), and the cause for debarment is described in paragraph (2) based on activities that occurred subsequent to the initial debarment, the debarment shall be for a period of not less than 5 years.

(C) SCOPE.—At a minimum, a debarment under this subsection shall serve to bar the contractor for the specified period from contracting to provide goods or services in conjunction with the participation of a local agency in a child nutrition program.

(D) REVERSAL, REDUCTION, OR EXCEPTION.—Nothing in this section shall restrict the ability of the Secretary to—

(i) reverse a debarment decision;

(ii) reduce the period or scope of a debarment;

(iii) grant an exception permitting a debarred contractor to participate in a particular contract to provide goods or services; or

(iv) otherwise settle a debarment action at any time;

in conjunction with the participation of a local agency in a child nutrition program, if the Secretary determines there is good cause for the action, after taking into account factors set forth in paragraphs (1) through (6) of subsection (e).

(5) INFORMATION.—On request, the Secretary shall present to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate information regarding the decisions required by this subsection.

(6) RELATIONSHIP TO OTHER AUTHORITIES.—A debarment imposed under this section shall not reduce or diminish the authority of a Federal, State, or local government agency or court to penalize, imprison, fine, suspend, debar, or take other adverse action against a person in a civil, criminal, or administrative proceeding.

(7) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this subsection.

(e) MANDATORY DEBARMENT.—Notwithstanding any other provision of this section, the Secretary shall initiate nonprocurement debarment proceedings against the contractor (including any cooperative) who has committed the cause for debarment (as determined under subsection (d)(2)), unless the action—

(1) is likely to have a significant adverse effect on competition or prices in the relevant market or nationally;

(2) will interfere with the ability of a local agency to procure a needed product for a child nutrition program;

(3) is unfair to a person, subsidiary corporation, affiliate, parent company, or local division of a corporation that is not

involved in the improper activity that would otherwise result in the debarment;

(4) is likely to have significant adverse economic impacts on the local economy in a manner that is unfair to innocent parties;

(5) is not justified in light of the penalties already imposed on the contractor for violations relevant to the proposed debarment, including any suspension or debarment arising out of the same matter that is imposed by any Federal or State agency; or

(6) is not in the public interest, or otherwise is not in the interests of justice, as determined by the Secretary.

(f) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—Prior to seeking judicial review in a court of competent jurisdiction, a contractor against whom a nonprocurement debarment proceeding has been initiated shall—

(1) exhaust all administrative procedures prescribed by the Secretary; and

(2) receive notice of the final determination of the Secretary.

(g) INFORMATION RELATING TO PREVENTION AND CONTROL OF ANTICOMPETITIVE ACTIVITIES.—On request, the Secretary shall present to the Committee on Education and Labor, and the Committee on Agriculture, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate information regarding the activities of the Secretary relating to anticompetitive activities, fraud, nonprocurement debarment, and any waiver granted by the Secretary under this section.

SEC. 26. [26–1] **[42 U.S.C. 1769g] INFORMATION CLEARINGHOUSE.**

(a) IN GENERAL.—The Secretary shall enter into a contract with a nongovernmental organization described in subsection (b) to establish and maintain a clearinghouse to provide information to nongovernmental groups located throughout the United States that assist low-income individuals or communities regarding food assistance, self-help activities to aid individuals in becoming self-reliant, and other activities that empower low-income individuals or communities to improve the lives of low-income individuals and reduce reliance on Federal, State, or local governmental agencies for food or other assistance.

(b) NONGOVERNMENTAL ORGANIZATION.—The nongovernmental organization referred to in subsection (a) shall be selected on a competitive basis and shall—

(1) be experienced in the gathering of first-hand information in all the States through onsite visits to grassroots organizations in each State that fight hunger and poverty or that assist individuals in becoming self-reliant;

(2) be experienced in the establishment of a clearinghouse similar to the clearinghouse described in subsection (a);

(3) agree to contribute in-kind resources towards the establishment and maintenance of the clearinghouse and agree to provide clearinghouse information, free of charge, to the Secretary, States, counties, cities, antihunger groups, and grassroots organizations that assist individuals in becoming self-sufficient and self-reliant;

[26–1] Section 26 added by section 123 of P.L. 103–448, 108 Stat. 4731, Nov. 2, 1994.

(4) be sponsored by an organization, or be an organization, that—

(A) has helped combat hunger for at least 10 years;

(B) is committed to reinvesting in the United States; and

(C) is knowledgeable regarding Federal nutrition programs;

(5) be experienced in communicating the purpose of the clearinghouse through the media, including the radio and print media, and be able to provide access to the clearinghouse information through computer or telecommunications technology, as well as through the mails; and

(6) be able to provide examples, advice, and guidance to States, counties, cities, communities, antihunger groups, and local organizations regarding means of assisting individuals and communities to reduce reliance on government programs, reduce hunger, improve nutrition, and otherwise assist low-income individuals and communities become more self-sufficient.

(c) AUDITS.—The Secretary shall establish fair and reasonable auditing procedures regarding the expenditures of funds to carry out this section.

(d) FUNDING.—Out of any moneys in the Treasury not otherwise appropriated, the Secretary of the Treasury shall pay to the Secretary to provide to the organization selected under this section, to establish and maintain the information clearinghouse, $200,000 for each of fiscal years 1995 and 1996, $150,000 for fiscal year 1997, $100,000 for fiscal year 1998, and $166,000 for each of fiscal years 1999 through 2003.[26–2] The Secretary shall be entitled to receive the funds and shall accept the funds, without further appropriation.[26–3]

SEC. 27.[27–1] **[42 U.S.C. 1769h] ACCOMMODATION OF THE SPECIAL DIETARY NEEDS OF INDIVIDUALS WITH DISABILITIES.**

(a) DEFINITIONS.—In this section:

(1) COVERED PROGRAM.—The term "covered program" means—

(A) the school lunch program authorized under this Act;

(B) the school breakfast program authorized under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773); and

(C) any other program authorized under this Act or the Child Nutrition Act of 1966 (except for section 17) that the Secretary determines is appropriate.

(2) ELIGIBLE ENTITY.—The term "eligible entity" means a school food authority, institution, or service institution that participates in a covered program.

(b) ACTIVITIES.—The Secretary may carry out activities to help accommodate the special dietary needs of individuals with disabil-

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[26–2] Section 112 of P.L. 105–336, 112 Stat. 3157, Oct. 31, 1998, amended this sentence by striking "and $100,000 for fiscal year 1998" and inserting "$100,000 for fiscal year 1998, and $166,000 for each of fiscal years 1999 through 2003".

[26–3] Section 103(c)(2) of P.L. 105–336, 112 Stat. 3147, Oct. 31, 1998, amended this sentence by inserting at the end before the period ", without further appropriation".

[27–1] Section 27 added by section 124 of P.L. 103–448, 108 Stat. 4732, Nov. 2, 1994, and amended by section 414(d) of P.L. 105-220, 112 Stat. 1242, Aug. 7, 1998. Section 113 of P.L. 105–336, 112 Stat. 3157, Oct. 31, 1998, amended this section in its entirety.

ities who are participating in a covered program. The activities may include—

(1) developing and disseminating to State agencies guidance and technical assistance materials;

(2) conducting training of State agencies and eligible entities; and

(3) providing grants to State agencies and eligible entities.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 1999 through 2003.

GENERAL NOTES

Section 17 of the Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note; Public Law 100–237) permits surplus commodities acquired by the Commodity Credit Corporation and commodities acquired under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to be used for any program authorized to be carried out by the Secretary that involves the acquisition of commodities for use in a domestic feeding program, including a program authorized by this Act.

Section 5(l)(2)(D) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93–86) permits the use of approved food safety technology in acquiring commodities for distribution under this Act.

Section 403(c)(2)(C) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(c)(2)(C)) provides that the 5-year limited eligibility of qualified aliens for Federal means-tested public benefits does not apply to assistance or benefits under this Act.

Section 422(b)(3) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1632(b)(3)) provides that the authority for States to provide for attribution of sponsors income and resources to aliens does not apply to programs comparable to assistance or benefits under this Act.

Section 423(d)(3) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104–193; 8 U.S.C. 1183a note) provides that the requirements for reimbursement by a sponsor for benefits provided to a sponsored alien pursuant to an affidavit of support under section 213A of the Immigration and Nationality Act (8 U.S.C. 1138a) do not apply to assistance or benefits under this Act.

Section 404B(g)(1)(A) of the Higher Education Act of 1965 (20 U.S.C. 1070a–22(g)(1)(A)) requires the Secretary of Education to provide services under chapter 2 of subpart 2 of part A of title IV of that Act (20 U.S.C. 1070a–21 et seq.) to certain students of schools in which at least 50 percent of the students enrolled are eligible for free or reduced-price lunch under this Act.

Section 404D(c)(2) of the Higher Education Act of 1965 (20 U.S.C. 1070a–24(c)(2)) requires an eligible entity to treat as priority students certain students who are eligible, inter alia, for free or reduced price meals under this Act.

Section 404F(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1070a–26(a)(2)) authorizes the Secretary of Education to ensure that 21st Century Scholar Certificates are provided to certain students who attend schools at which at least 50 percent of the students enrolled are eligible for a free or reduced price lunch under this Act.

Section 231(d)(3)(A)(i) of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2341(d)(3)(A)(i)) provides that a State may determine the number of economically disadvantaged students attending vocational education programs on the basis of eligibility for, inter alia, free or reduced-price meals under the Richard B. Russell National School Lunch Act.

Section 1113(a)(5) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6313(a)(5)) requires a local educational agency to use a measure of poverty that is based, inter alia, on the number of children eligible for free and reduced priced lunches under this Act.

Section 1707(3) of the Elementary and Secondary Education Act of 1965 defines a "low-income individual' as an individual who is determined by a State educational agency or local educational agency to be a child, ages 5 through 17, from a low-income family, on the basis of, inter alia, data on children eligible for free or reduced-price lunches under this Act.

Section 1397E(d)(4)(A)(iv)(II) of the Internal Revenue Code of 1986 provides a credit to holders of qualified zone bonds and includes in the definition of "qualified zone academy" a factor relating to the number of students who are eligible for free or reduced-cost lunches under this Act.

Section 254(b)(2)(B) of the Job Training Partnership Act (29 U.S.C. 1633(b)(2)(B)) provides that an individual shall be eligible to participate in the program assisted under part B of title II of such Act (relating to the summer youth employment and training program) if the individual (1) is age 14 through 21, and (2)(A) is economically disadvantaged, or (B) has been determined to meet the eligibility requirements for free meals under this Act during the most recent school year.

Section 263(a)(2)(C) of the Job Training Partnership Act (29 U.S.C. 1643(a)(2)(C)) provides, with certain exceptions, that an individual who is in school shall be eligible to participate in the program under part C of title II of such Act (relating to the youth training program) if the individual, inter alia, has been determined to meet the eligibility requirements for free meals under this Act during the most recent school year.

Section 602(d)(9)(A) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474(d)(9)(A)) provides that nothing in such Act shall impair or affect any authority of the Secretary of Agriculture under the Richard B. Russell National School Lunch Act.

Section 7(a)(8) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(8)) requires each State, in accordance with regulations issued by the Secretary, to ensure that the State agency administering the distribution of commodities under programs authorized under this Act is provided, from funds made available to the State under section 7(a) of the Child Nutrition Act of 1966, an appropriate amount of funds for administrative costs incurred in distributing such commodities, and permits the Secretary, in developing such regulations, to consider the value of commodities provided to the State under this Act.

Section 10(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1779(a)) requires the Secretary of Agriculture to prescribe such regulations as he deems necessary to carry out such Act and the Richard B. Russell National School Lunch Act.

Section 10405(a)(2)(H) of the Omnibus Budget Reconciliation Act of 1989 (Public Law 101–239) provides that payments made from the Agent Orange Settlement Fund or a similar fund shall not be considered income or resources in determining eligibility for the amount of benefits under the Richard B. Russell National School Lunch Act.

The matter under the heading "CHILD NUTRITION PROGRAMS" under "FOOD AND NUTRITION SERVICE" of chapter I of title XI of Public Law 102–368 provides that the Secretary may waive the requirements of this Act as they pertain to schools and institutions only to the degree the Secretary determines necessary to ensure nutrition benefits for program participants in the areas directly affected by natural disasters such as Hurricanes Andrew and Iniki and Typhoon Omar.

Section 2(4) of the Healthy Meals for Healthy Americans Act of 1994 (Public Law 103–448; 42 U.S.C. 1751 note) provides a congressional finding that supplemental nutrition programs under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) can help to offset threats posed to a child's capacity to learn and perform in school that result from inadequate nutrient intake.

Section 3(1) of the Healthy Meals for Healthy Americans Act of 1994 (Public Law 103–448) provides that it is the sense of Congress that funds should be made available for child nutrition programs to remove barriers to the participation of needy children in the school lunch program, school breakfast program, summer food service program for children, and the child and adult care food program under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).

Section 301 of the Healthy Meals for Healthy Americans Act of 1994 (Public Law 103–448; 42 U.S.C. 1751 note) requires the Secretary, not later than 18 months after the date of enactment of such Act, to develop and implement regulations to consolidate the school lunch program and the school breakfast program into a comprehensive meal program and prescribes certain requirements for establishing the program.

Section 741 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 42 U.S.C. 1751 note) requires the Secretary of Agriculture to develop proposed changes to the regulations under the school lunch program under this Act, the summer food service program under section 13 of this Act, and the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773), for the purpose of simplifying and coordinating those programs into a comprehensive meal program, and to submit a report containing the proposed changes to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Economic and Educational Opportunities of the House of Representatives not later than November 1, 1997.

Section 658O(b)(3) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858m(b)(3)) provides a definition of "school lunch factor" that is based, inter alia, on the number of children in the State who are receiving free or reduced price lunches under the school lunch program established under this Act.

Section 1404(b) of the Children's Health Act of 2000 (42 U.S.C. 9859c(b)) provides an allotment formula for child care safety and health grants that is based, inter alia, on a school lunch factor.

Subsection (b) of the first section of Public Law 87–688 (48 U.S.C. 1666(b)) provides that the Secretary may extend to American Samoa the benefits of this Act.

Section 742 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 8 U.S.C. 1615) provides that—

(1) an individual who is eligible to receive free public education benefits under State or local law shall not be ineligible to receive benefits provided under the school lunch program under this Act on the basis of citizenship, alienage, or immigration status; and

(2) nothing in the Act shall prohibit or require a State to provide to an individual who is not a citizen or a qualified alien benefits under programs established under this Act (other than the school lunch program).

OMNIBUS BUDGET RECONCILIATION ACT OF 1981

[Public Law 97–35, August 13, 1981 (95 Stat. 357)]

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TITLE XXVI—LOW-INCOME HOME ENERGY ASSISTANCE

SHORT TITLE

SEC. 2601. This title may be cited as the "Low-Income Home Energy Assistance Act of 1981".

HOME ENERGY GRANTS AUTHORIZED

SEC. 2602. (a) The Secretary is authorized to make grants, in accordance with the provisions of this title, to States to assist low-income households, particularly those with the lowest incomes, that pay a high proportion of household income for home energy, primarily in meeting their immediate home energy needs.

(b) There are authorized to be appropriated to carry out the provisions of this title (other than section 2607A), $2,000,000,000 for each of fiscal years 1995 through 1999, such sums as may be necessary for each of fiscal years 2000 and 2001, and $2,000,000,000 for each of fiscal years 2002 through 2004. The authorizations of appropriations contained in this subsection are subject to the program year provisions of subsection (c).

(c) Amounts appropriated under this section for any fiscal year for programs and activities under this title shall be made available for obligation in the succeeding fiscal year.

(d)(1) There is authorized to be appropriated to carry out section 2607A, $30,000,000 for each of fiscal years 1999 through 2004, except as provided in paragraph (2).

(2) For any of fiscal years 1999 through 2004 for which the amount appropriated under subsection (b) is not less than $1,400,000,000, there is authorized to be appropriated $50,000,000 to carry out section 2607A.

(e) There is authorized to be appropriated in each fiscal year for payments under this title, in addition to amounts appropriated for distribution to all the States in accordance with section 2604 (other than subsection (e) of such section), $600,000,000 to meet the additional home energy assistance needs of one or more States arising from a natural disaster or other emergency. Funds appropriated pursuant to this subsection are hereby designated to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, except that such funds shall be made available only after the submission to Congress of a formal budget request by the President (for all or a part of the appropriation pursuant to this subsection) that

includes a designation of the amount requested as an emergency requirement as defined in such Act.

(42 U.S.C. 8621)

DEFINITIONS

SEC. 2603. As used in this title:

(1) The term "emergency" means—

(A) a natural disaster;

(B) a significant home energy supply shortage or disruption;

(C) a significant increase in the cost of home energy, as determined by the Secretary;

(D) a significant increase in home energy disconnections reported by a utility, a State regulatory agency, or another agency with necessary data;

(E) a significant increase in participation in a public benefit program such as the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the national program to provide supplemental security income carried out under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or the State temporary assistance for needy families program carried out under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), as determined by the head of the appropriate Federal agency;

(F) a significant increase in unemployment, layoffs, or the number of households with an individual applying for unemployment benefits, as determined by the Secretary of Labor; or

(G) an event meeting such criteria as the Secretary, in the discretion of the Secretary, may determine to be appropriate.

(2) The term "energy burden" means the expenditures of the household for home energy divided by the income of the household.

(3) The term "energy crisis" means weather-related and supply shortage emergencies and other household energy-related emergencies.

(4) The term "highest home energy needs" means the home energy requirements of a household determined by taking into account both the energy burden of such household and the unique situation of such household that results from having members of vulnerable populations, including very young children, individuals with disabilities, and frail older individuals.

(5) The term "household" means any individual or group of individuals who are living together as one economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.

(6) The term "home energy" means a source of heating or cooling in residential dwellings.

(7) The term "natural disaster" means a weather event (relating to cold or hot weather), flood, earthquake, tornado, hurricane, or ice storm, or an event meeting such other criteria as

the Secretary, in the discretion of the Secretary, may determine to be appropriate.

(8) The term "poverty level" means, with respect to a household in any State, the income poverty line as prescribed and revised at least annually pursuant to section 673(2) of the Community Services Block Grant Act, as applicable to such State.

(9) The term "Secretary" means the Secretary of Health and Human Services.

(10) The term "State" means each of the several States and the District of Columbia.

(11) The term "State median income" means the State median income promulgated by the Secretary in accordance with procedures established under section 2002(a)(6) of the Social Security Act (as such procedures were in effect on the day before the date of the enactment of this Act) and adjusted, in accordance with regulations prescribed by the Secretary, to take into account the number of individuals in the household.

(42 U.S.C. 8622)

STATE ALLOTMENTS

SEC. 2604. (a)(1)(A) Except as provided in subparagraph (B), the Secretary shall, from that percentage of the amount appropriated under section 2602(b) for each fiscal year which is remaining after reserving any amount permitted to be reserved under section 2609A and after the amount of allotments for such fiscal year under subsection (b)(1) is determined by the Secretary, allot to each State an amount equal to such remaining percentage multiplied by the State's allotment percentage.

(B) From the sums appropriated therefor after reserving any amount permitted to be reserved under section 2609A, if for any period a State has a plan which is described in section 2605(c)(1), the Secretary shall pay to such State an amount equal to 100 percent of the expenditures of such State made during such period in carrying out such plan, including administrative costs (subject to the provisions of section 2605(b)(9)(B)), with respect to households described in section 2605(b)(2).

(2) For purposes of paragraph (1), for fiscal year 1985 and thereafter, a State's allotment percentage is the percentage which expenditures for home energy by low-income households in that State bears to such expenditures in all States, except that States which thereby receive the greatest proportional increase in allotments by reason of the application of this paragraph from the amount they received pursuant to Public Law 98–139 shall have their allotments reduced to the extent necessary to ensure that—

(A)(i) no State for fiscal year 1985 shall receive less than the amount of funds the State received in fiscal year 1984; and

(ii) no State for fiscal year 1986 and thereafter shall receive less than the amount of funds the State would have received in fiscal year 1984 if the appropriations for this title for fiscal year 1984 had been $1,975,000,000, and

(B) any State whose allotment percentage out of funds available to States from a total appropriation of $2,250,000,000 would be less than 1 percent, shall not, in any year when total

appropriations equal or exceed $2,250,000,000, have its allotment percentage reduced from the percentage it would receive from a total appropriation of $2,140,000,000.

(3) If the sums appropriated for any fiscal year for making grants under this title are not sufficient to pay in full the total amount allocated to a State under paragraph (1) for such fiscal year, the amount which all States will receive under this title for such fiscal year shall be ratably reduced.

(4) For the purpose of this section, the Secretary shall determine the expenditure for home energy by low-income households on the basis of the most recent satisfactory data available to the Secretary.

(b)(1) The Secretary shall apportion not less than one-tenth of 1 percent, and not more than one-half of 1 percent, of the amounts appropriated for each fiscal year to carry out this title on the basis of need among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands. The Secretary shall determine the total amount to be apportioned under this paragraph for any fiscal year (which shall not exceed one-half of 1 percent) after evaluating the extent to which each jurisdiction specified in the preceding sentence requires assistance under this paragraph for the fiscal year involved.

(2) Each jurisdiction to which paragraph (1) applies may receive grants under this title upon an application submitted to the Secretary containing provisions which describe the programs for which assistance is sought under this title, and which are consistent with the requirements of section 2605.

(c) Of the funds available to each State under subsection (a), a reasonable amount based on data from prior years shall be reserved until March 15 of each program year by each State for energy crisis intervention. The program for which funds are reserved by this subsection shall be administered by public or nonprofit entities which have experience in administering energy crisis programs under the Low-Income Energy Assistance Act of 1980, or under this Act, experience in assisting low-income individuals in the area to be served, the capacity to undertake a timely and effective energy crisis intervention program, and the ability to carry out the program in local communities. The program for which funds are reserved under this subsection shall—

(1) not later than 48 hours after a household applies for energy crisis benefits, provide some form of assistance that will resolve the energy crisis if such household is eligible to receive such benefits;

(2) not later than 18 hours after a household applies for crisis benefits, provide some form of assistance that will resolve the energy crisis if such household is eligible to receive such benefits and is in a life-threatening situation; and

(3) require each entity that administers such program—

(A) to accept applications for energy crisis benefits at sites that are geographically accessible to all households in the area to be served by such entity; and

(B) to provide to low-income individuals who are physically infirm the means—

(i) to submit applications for energy crisis benefits without leaving their residences; or

(ii) to travel to the sites at which such applications are accepted by such entity.

The preceding sentence shall not apply to a program in a geographical area affected by a natural disaster in the United States designated by the Secretary, or by a major disaster or emergency designated by the President under the Disaster Relief Act of 1974, for so long as such designation remains in effect, if the Secretary determines that such disaster or such emergency makes compliance with such sentence impracticable.

(d)(1) If, with respect to any State, the Secretary—

(A) receives a request from the governing organization of an Indian tribe within the State that assistance under this title be made directly to such organization; and

(B) determines that the members of such tribe would be better served by means of grants made directly to provide benefits under this title;

the Secretary shall reserve from amounts which would otherwise be payable to such State from amounts allotted to it under this title for the fiscal year involved the amount determined under paragraph (2).

(2) The amount determined under this paragraph for a fiscal year is the amount which bears the same ratio to the amount which would (but for this subsection) be allotted to such State under this title for such fiscal year (other than by reason of section 2607(b)(2)) as the number of Indian households described in subparagraphs (A) and (B) of section 2605(b)(2) and residing within the State on the reservation of the tribes or on trust lands adjacent to such reservation bears to the number of all households described in subparagraphs (A) and (B) of section 2605(b)(2) in such State, or such greater amount as the Indian tribe and the State may agree upon. In cases where a tribe has no reservation, the Secretary, in consultation with the tribe and the State, shall define the number of Indian households for the determination under this paragraph.

(3) The sums reserved by the Secretary on the basis of a determination under this subsection shall be granted to—

(A) the tribal organization serving the individuals for whom such a determination has been made; or

(B) in any case where there is no tribal organization serving an individual for whom such a determination has been made, such other entity as the Secretary determines has the capacity to provide assistance pursuant to this title.

(4) In order for a tribal organization or other entity to be eligible for an amount under this subsection for a fiscal year, it shall submit to the Secretary a plan (in lieu of being under the State's plan) for such fiscal year which meets such criteria as the Secretary may by regulations prescribe.

(e) Notwithstanding subsections (a) through (d), the Secretary may allot amounts appropriated pursuant to section 2602(e) to one or more than one State. In determining whether to make such an allotment to a State, the Secretary shall take into account the extent to which the State was affected by the natural disaster or other emergency involved, the availability to the State of other re-

sources under the program carried out under this title or any other program, and such other factors as the Secretary may find to be relevant. Not later than 30 days after making the determination, but prior to releasing an allotted amount to a State, the Secretary shall notify Congress of the allotments made pursuant to this subsection.

(42 U.S.C. 8623)

APPLICATIONS AND REQUIREMENTS

SEC. 2605. (a)(1) Each State desiring to receive an allotment for any fiscal year under this title shall submit an application to the Secretary. Each such application shall be in such form as the Secretary shall require. Each such application shall contain assurances by the chief executive officer of the State that the State will meet the conditions enumerated in subsection (b).

(2) After the expiration of the first fiscal year for which a State receives funds under this title, no funds shall be allotted to such State for any fiscal year under this title unless such State conduct public hearings with respect to the proposed use and distribution of funds to be provided under this title for such fiscal year.

(b) As part of the annual application required by subsection (a), the chief executive officer of each State shall certify that the State agrees to—

(1) use the funds available under this title to—

(A) conduct outreach activities and provide assistance to low income households in meeting their home energy costs, particularly those with the lowest incomes that pay a high proportion of household income for home energy, consistent with paragraph (5);

(B) intervene in energy crisis situations;

(C) provide low-cost residential weatherization and other cost-effective energy-related home repair; and

(D) plan, develop, and administer the State's program under this title including leveraging programs,

and the State agrees not to use such funds for any purposes other than those specified in this title;

(2) make payments under this title only with respect to—

(A) households in which 1 or more individuals are receiving—

(i) assistance under the State program funded under part A of title IV of the Social Security Act;

(ii) supplemental security income payments under title XVI of the Social Security Act;

(iii) food stamps under the Food Stamp Act of 1977; or

(iv) payments under section 415, 521, 541, or 542 of title 38, United States Code, or under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978; or

(B) households with incomes which do not exceed the greater of—

(i) an amount equal to 150 percent of the poverty level for such State; or

(ii) an amount equal to 60 percent of the State median income;

except that a State may not exclude a household from eligibility in a fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for such State, but the State may give priority to those households with the highest home energy costs or needs in relation to household income;

(3) conduct outreach activities designed to assure that eligible households, especially households with elderly individuals or disabled individuals, or both, and households with high home energy burdens, are made aware of the assistance available under this title, and any similar energy-related assistance available under subtitle B of title VI (relating to community services block grant program) or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(4) coordinate its activities under this title with similar and related programs administered by the Federal Government and such State, particularly low-income energy-related programs under subtitle B of title VI (relating to community services block grant program), under the supplemental security income program, under part A of title IV of the Social Security Act, under title XX of the Social Security Act, under the low-income weatherization assistance program under title IV of the Energy Conservation and Production Act, or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(5) provide, in a timely manner, that the highest level of assistance will be furnished to those households which have the lowest incomes and the highest energy costs or needs in relation to income, taking into account family size, except that the State may not differentiate in implementing this section between the households described in clauses (2)(A) and (2)(B) of this subsection;

(6) to the extent it is necessary to designate local administrative agencies in order to carry out the purposes of this title, to give special consideration, in the designation of such agencies, to any local public or private nonprofit agency which was receiving Federal funds under any low-income energy assistance program or weatherization program under the Economic Opportunity Act of 1964 or any other provision of law on the day before the date of the enactment of this Act, except that—

(A) the State shall, before giving such special consideration, determine that the agency involved meets program and fiscal requirements established by the State; and

(B) if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, then the State shall give special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency

which did receive funds for the fiscal year preceding the fiscal year for which the determination is made;

(7) if the State chooses to pay home energy suppliers directly, establish procedures to—

(A) notify each participating household of the amount of assistance paid on its behalf;

(B) assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this title;

(C) assure that the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this paragraph will contain provisions to assure that no household receiving assistance under this title will be treated adversely because of such assistance under applicable provisions of State law or public regulatory requirements; and

(D) ensure that the provision of vendored payments remains at the option of the State in consultation with local grantees and may be contingent on unregulated vendors taking appropriate measures to alleviate the energy burdens of eligible households, including providing for agreements between suppliers and individuals eligible for benefits under this Act that seek to reduce home energy costs, minimize the risks of home energy crisis, and encourage regular payments by individuals receiving financial assistance for home energy costs;

(8) provide assurances that (A) the State will not exclude households described in clause (2)(B) of this subsection from receiving home energy assistance benefits under clause (2), and (B) the State will treat owners and renters equitably under the program assisted under this title;

(9) provide that—

(A) the State may use for planning and administering the use of funds under this title an amount not to exceed 10 percent of the funds payable to such State under this title for a fiscal year; and

(B) the State will pay from non-Federal sources the remaining costs of planning and administering the program assisted under this title and will not use Federal funds for such remaining costs (except for the costs of the activities described in paragraph (16));

(10) provide that such fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursal of and accounting for Federal funds paid to the State under this title, including procedures for monitoring the assistance provided under this title, and provide that the State will comply with the provisions of chapter 75 of title 31, United States Code (commonly known as the "Single Audit Act");

(11) permit and cooperate with Federal investigations undertaken in accordance with section 2608;

(12) provide for timely and meaningful public participation in the development of the plan described in subsection (c);

(13) provide an opportunity for a fair administrative hearing to individuals whose claims for assistance under the plan described in subsection (c) are denied or are not acted upon with reasonable promptness;

(14) cooperate with the Secretary with respect to data collecting and reporting under section 2610;

(15) beginning in fiscal year 1992, provide, in addition to such services as may be offered by State Departments of Public Welfare at the local level, outreach and intake functions for crisis situations and heating and cooling assistance that is administered by additional State and local governmental entities or community-based organizations (such as community action agencies, area agencies on aging, and not-for-profit neighborhood-based organizations), and in States where such organizations do not administer intake functions as of September 30, 1991, preference in awarding grants or contracts for intake services shall be provided to those agencies that administer the low-income weatherization or energy crisis intervention programs; and

(16) use up to 5 percent of such funds, at its option, to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance, including needs assessments, counseling, and assistance with energy vendors, and report to the Secretary concerning the impact of such activities on the number of households served, the level of direct benefits provided to those households, and the number of households that remain unserved.

The Secretary may not prescribe the manner in which the States will comply with the provisions of this subsection. The Secretary shall issue regulations to prevent waste, fraud, and abuse in the programs assisted by this title. Not later than 18 months after the date of the enactment of the Low-Income Home Energy Assistance Amendments of 1994, the Secretary shall develop model performance goals and measurements in consultation with State, territorial, tribal, and local grantees, that the States may use to assess the success of the States in achieving the purposes of this title. The model performance goals and measurements shall be made available to States to be incorporated, at the option of the States, into the plans for fiscal year 1997. The Secretary may request data relevant to the development of model performance goals and measurements.

(c)(1) As part of the annual application required in subsection (a), the chief executive officer of each State shall prepare and furnish to the Secretary, in such format as the Secretary may require, a plan which—

(A) describes the eligibility requirements to be used by the State for each type of assistance to be provided under this title, including criteria for designating an emergency under section 2604(c);

(B) describes the benefit levels to be used by the State for each type of assistance including assistance to be provided for emergency crisis intervention and for weatherization and other energy-related home repair;

(C) contains estimates of the amount of funds the State will use for each of the programs under such plan and describes the alternative use of funds reserved under section 2604(c) in the event any portion of the amount so reserved is not expended for emergencies;

(D) describes weatherization and other energy-related home repair the State will provide under subsection (k), including any steps the State will take to address the weatherization and energy-related home repair needs of households that have high home energy burdens, and describes any rules promulgated by the Department of Energy for administration of its Low Income Weatherization Assistance Program which the State, to the extent permitted by the Secretary to increase consistency between federally assisted programs, will follow regarding the use of funds provided under this title by the State for such weatherization and energy-related home repairs and improvements;

(E) describes any steps that will be taken (in addition to those necessary to carry out the assurance contained in paragraph (5) of subsection (b)) to target assistance to households with high home energy burdens;

(F) describes how the State will carry out assurances in clauses (3), (4), (5), (6), (7), (8), (10), (12), (13), and (15) of subsection (b);

(G) states, with respect to the 12-month period specified by the Secretary, the number and income levels of households which apply and the number which are assisted with funds provided under this title, and the number of households so assisted with—

(i) one or more members who had attained 60 years of age;

(ii) one or more members who were disabled; and

(iii) one or more young children; and

(H) contains any other information determined by the Secretary to be appropriate for purposes of this title.

The chief executive officer may revise any plan prepared under this paragraph and shall furnish the revised plan to the Secretary.

(2) Each plan prepared under paragraph (1) and each substantial revision thereof shall be made available for public inspection within the State involved in such a manner as will facilitate timely and meaningful review of, and comment upon, such plan or substantial revision.

(3) Not later than April 1 of each fiscal year the Secretary shall make available to the States a model State plan format that may be used, at the option of each State, to prepare the plan required under paragraph (1) for the next fiscal year.

(d) The State shall expend funds in accordance with the State plan under this title or in accordance with revisions applicable to such plan.

(e) Each State shall, in carrying out the requirements of subsection (b)(10), obtain financial and compliance audits of any funds which the State receives under this title. Such audits shall be made public within the State on a timely basis. The audits shall be conducted in accordance with chapter 75 of title 31, United States Code.

(f)(1) Notwithstanding any other provision of law unless enacted in express limitation of this paragraph, the amount of any home energy assistance payments or allowances provided directly to, or indirectly for the benefit of, an eligible household under this title shall not be considered income or resources of such household (or any member thereof) for any purpose under any Federal or State law, including any law relating to taxation, food stamps, public assistance, or welfare programs.

(2) For purposes of paragraph (1) of this subsection and for purposes of determining any excess shelter expense deduction under section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e))—

(A) the full amount of such payments or allowances shall be deemed to be expended by such household for heating or cooling expenses, without regard to whether such payments or allowances are provided directly to, or indirectly for the benefit of, such household; and

(B) no distinction may be made among households on the basis of whether such payments or allowances are provided directly to, or indirectly for the benefit of, any of such households.

(g) The State shall repay to the United States amounts found not to have been expended in accordance with this title or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this title.

(h) The Comptroller General of the United States shall, from time to time evaluate the expenditures by States of grants under this title in order to assure that expenditures are consistent with the provisions of this title and to determine the effectiveness of the State in accomplishing the purposes of this title.

(i) A household which is described in subsection (b)(2)(A) solely by reason of clause (ii) thereof shall not be treated as a household described in subsection (b)(2) if the eligibility of the household is dependent upon—

(1) an individual whose annual supplemental security income benefit rate is reduced pursuant to section 1611(e)(1) of the Social Security Act by reason of being in an institution receiving payments under title XIX of the Social Security Act with respect to such individual;

(2) an individual to whom the reduction specified in section 1612(a)(2)(A)(i) of the Social Security Act applies; or

(3) a child described in section 1614(f)(2) of the Social Security Act who is living together with a parent, or the spouse of a parent, of the child.

(j) In verifying income eligibility for purposes of subsection (b)(2)(B), the State may apply procedures and policies consistent with procedures and policies used by the State agency administering programs under part A of title IV of the Social Security Act, under title XX of the Social Security Act, under subtitle B of title VI of this Act (relating to community services block grant program), under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act, or under other income assistance or service programs (as determined by the State).

(k)(1) Except as provided in paragraph (2), not more than 15 percent of the greater of—

(A) the funds allotted to a State under this title for any fiscal year; or

(B) the funds available to such State under this title for such fiscal year;

may be used by the State for low-cost residential weatherization or other energy-related home repair for low-income households, particularly those low-income households with the lowest incomes that pay a high proportion of household income for home energy.

(2)(A) If a State receives a waiver granted under subparagraph (B) for a fiscal year, the State may use not more than the greater of 25 percent of—

(i) the funds allotted to a State under this title for such fiscal year; or

(ii) the funds available to such State under this title for such fiscal year;

for residential weatherization or other energy-related home repair for low-income households, particularly those low-income households with the lowest incomes that pay a high proportion of household income for home energy.

(B) For purposes of subparagraph (A), the Secretary may grant a waiver to a State for a fiscal year if the State submits a written request to the Secretary after March 31 of such fiscal year and if the Secretary determines, after reviewing such request and any public comments, that—

(i)(I) the number of households in the State that will receive benefits, other than weatherization and energy-related home repair, under this title in such fiscal year will not be fewer than the number of households in the State that received benefits, other than weatherization and energy-related home repair, under this title in the preceding fiscal year;

(II) the aggregate amounts of benefits that will be received under this title by all households in the State in such fiscal year will not be less than the aggregate amount of such benefits that were received under this title by all households in the State in the preceding fiscal year; and

(III) such weatherization activities have been demonstrated to produce measurable savings in energy expenditures by low-income households; or

(ii) in accordance with rules issued by the Secretary, the State demonstrates good cause for failing to satisfy the requirements specified in clause (i).

(l)(1) Any State may use amounts provided under this title for the purpose of providing credits against State tax to energy suppliers who supply home energy at reduced rates to low-income households.

(2) Any such credit provided by a State shall not exceed the amount of the loss of revenue to such supplier on account of such reduced rate.

(3) Any certification for such tax credits shall be made by the State, but such State may use Federal data available to such State with respect to recipients of supplemental security income benefits if timely delivery of benefits to households described in subsection (b) and suppliers will not be impeded by the use of such data.

(42 U.S.C. 8624)

NONDISCRIMINATION PROVISIONS

SEC. 2606. (a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 also shall apply to any such program or activity.

(b) Whenever the Secretary determines that a State that has received a payment under this title has failed to comply with subsection (a) or an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable; or (3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that the State is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(42 U.S.C. 8625)

PAYMENTS TO STATES

SEC. 2607. (a)(1) From its allotment under section 2604, the Secretary shall make payments to each State in accordance with section 203 of the Intergovernmental Cooperation Act of 1968, for use under this title.

(2) Each State shall notify the Secretary, not later than 2 months prior to the close of a fiscal year, of the amount (if any) of its allotment for such year that will not be obligated in such year, and, if such State elects to submit a request described in subsection (b)(2), such State shall submit such request at the same time. The Secretary shall make no payment under paragraph (1) to a State for a fiscal year unless the State has complied with this paragraph with respect to the prior fiscal year.

(b)(1) If—

(A) the Secretary determines that, as of September 1 of any fiscal year, an amount allotted to a State under section

2604 for any fiscal year will not be used by such State during such fiscal year;

(B) the Secretary—

(i) notifies the chief executive officer of such State; and

(ii) publishes a timely notice in the Federal Register;

that, after the 30-day period beginning on the date of the notice to such chief executive officer, such amount may be reallotted; and

(C) the State does not request, under paragraph (2), that such amount be held available for such State for the following fiscal year;

then such amount shall be treated by the Secretary for purposes of this title as an amount appropriated for the following fiscal year to be allotted under section 2604 for such following fiscal year.

(2)(A) Any State may request that an amount allotted to such State for a fiscal year be held available for such State for the following fiscal year. Such request shall include a statement of the reasons that the amount allotted to such State for a fiscal year will not be used by such State during such fiscal year and a description of the types of assistance to be provided with the amount held available for the following fiscal year. Any amount so held available for the following fiscal year shall not be taken into account in computing the allotment of or the amount payable to such State for such fiscal year under this title.

(B) No amount may be held available under this paragraph for a State from a prior fiscal year to the extent such amount exceeds 10 percent of the amount payable to such State for such prior fiscal year. For purposes of the preceding sentence, the amount payable to a State for a fiscal year shall be determined without regard to any amount held available under this paragraph for such State for such fiscal year from the prior fiscal year.

(C) The Secretary shall reallot amounts made available under this paragraph for the fiscal year following the fiscal year of the original allotment in accordance with paragraph (1) of this subsection.

(3) During the 30-day period described in paragraph (1)(B), comments may be submitted to the Secretary. After considering such comments, the Secretary shall notify the chief executive officer of the State of any decision to reallot funds, and shall publish such decision in the Federal Register.

(42 U.S.C. 8626)

INCENTIVE PROGRAM FOR LEVERAGING NON-FEDERAL RESOURCES

SEC. 2607A. (a) Beginning in fiscal year 1992, the Secretary may allocate amounts appropriated under section 2602(d) to provide supplementary funds to States that have acquired non-Federal leveraged resources for the program established under this title.

(b) For purposes of this section, the term "leveraged resources" means the benefits made available to the low-income home energy assistance program of the State, or to federally qualified low-income households, that—

(1) represent a net addition to the total energy resources available to State and federally qualified households in excess of the amount of such resources that could be acquired by such

households through the purchase of energy at commonly available household rates; and

(2)(A) result from the acquisition or development by the State program of quantifiable benefits that are obtained from energy vendors through negotiation, regulation or competitive bid; or

(B) are appropriated or mandated by the State for distribution—

(i) through the State program; or

(ii) under the plan referred to in section 2605(c)(1)(A) to federally qualified low-income households and such benefits are determined by the Secretary to be integrated with the State program.

(c)(1) Distribution of amounts made available under this section shall be based on a formula developed by the Secretary that is designed to take into account the success in leveraging existing appropriations in the preceding fiscal year as measured under subsection (d). Such formula shall take into account the size of the allocation of the State under this title and the ratio of leveraged resources to such allocation.

(2) A State may expend funds allocated under this title as are necessary, not to exceed 0.08 percent of such allocation or $35,000 each fiscal year, whichever is greater, to identify, develop, and demonstrate leveraging programs. Funds allocated under this section shall only be used for increasing or maintaining benefits to households.

(d) Each State shall quantify the dollar value of leveraged resources received or acquired by such State under this section by using the best available data to calculate such leveraged resources less the sum of any costs incurred by the State to leverage such resources and any cost imposed on the federally eligible low-income households in such State.

(e) Not later than 2 months after the close of the fiscal year during which the State provided leveraged resources to eligible households, as described in subsection (b), each State shall prepare and submit, to the Secretary, a report that quantifies the leveraged resources of such State in order to qualify for assistance under this section for the following fiscal year.

(f) The Secretary shall determine the share of each State of the amounts made available under this section based on the formula described in subsection (c) and the State reports. The Secretary shall promulgate regulations for the calculation of the leveraged resources of the State and for the submission of supporting documentation. The Secretary may request any documentation that the Secretary determines necessary for the verification of the application of the State for assistance under this section.

(42 U.S.C. 8626a)

SEC. 2607B. RESIDENTIAL ENERGY ASSISTANCE CHALLENGE OPTION (R.E.A.CH.).

(a) PURPOSE.—The purpose of the Residential Energy Assistance Challenge (in this section referred to as "R.E.A.Ch.") program is to—

(1) minimize health and safety risks that result from high energy burdens on low-income Americans;

(2) prevent homelessness as a result of inability to pay energy bills;

(3) increase the efficiency of energy usage by low-income families; and

(4) target energy assistance to individuals who are most in need.

(b) FUNDING.—

(1) ALLOCATION.—For each of the fiscal years 1996 through 1999, the Secretary may allocate not more than 25 percent of the amount made available pursuant to section 2602(d) for such fiscal year to a R.E.A.Ch. fund for the purpose of making incentive grants to States that submit qualifying plans that are approved by the Secretary as R.E.A.Ch. initiatives. States may use such grants for the costs of planning, implementing, and evaluating the initiative.

(2) RESERVATION.—The Secretary shall reserve from any funds allocated under this subsection, funds to make additional payments to State R.E.A.Ch. programs that—

(A) have energy efficiency education services plans that meet quality standards established by the Secretary in consultation with the Secretary of Energy; and

(B) have the potential for being replicable model designs for other programs.

States shall use such supplemental funds for the implementation and evaluation of the energy efficiency education services.

(c) CRITERIA.—

(1) IN GENERAL.—Not later than May 31, 1995, the Secretary shall establish criteria for approving State plans required by subsection (a), for energy efficiency education quality standards described in subsection (b)(2)(A), and for the distribution of funds to States with approved plans.

(2) DOCUMENTATION.—Notwithstanding the limitations of section 2605(b) regarding the authority of the Secretary with respect to plans, the Secretary may require a State to provide appropriate documentation that its R.E.A.Ch. activities conform to the State plan as approved by the Secretary.

(d) FOCUS.—The State may designate all or part of the State, or all or part of the client population, as a focus of its R.E.A.Ch. initiative.

(e) STATE PLANS.—

(1) IN GENERAL.—Each State plan shall include each of the elements described in paragraph (2), to be met by State and local agencies.

(2) ELEMENTS OF STATE PLANS.—Each State plan shall include—

(A) an assurance that such State will deliver services through community-based nonprofit entities in such State, by—

(i) awarding grants to, or entering into contracts with, such entities for the purpose of providing such services and payments directly to individuals eligible for benefits; or

(ii) if a State makes payments directly to eligible individuals or energy suppliers, making contracts with such entities to administer such programs, including—

(I) determining eligibility;

(II) providing outreach services; and

(III) providing benefits other than payments;

(B) an assurance that, in awarding grants or entering into contracts to carry out its R.E.A.Ch. initiative, the State will give priority to organizations that—

(i) are described in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902(1)), except where significant geographic portions of the State are not served by such entities;

(ii) the Secretary has determined have a record of successfully providing services under the Low-Income Home Energy Assistance Program; and

(iii) receive weatherization assistance program funds under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6863 et seq.);

except that a State may not require any such entity to operate a R.E.A.Ch. program;

(C) an assurance that, subject to subparagraph (D), each entity that receives a grant or enters into a contract under subparagraph (A)(i) will provide a variety of services and benefits, including—

(i) payments to, or on behalf of, individuals eligible for residential energy assistance services and benefits under section 2605(b) for home energy costs;

(ii) energy efficiency education;

(iii) residential energy demand management services, including any other energy related residential repair and energy efficiency improvements in coordination with, or delivered by, Department of Energy weatherization assistance programs at the discretion of the State;

(iv) family services, such as counseling and needs assessment, related to energy budget management, payment plans, and related services; and

(v) negotiation with home energy suppliers on behalf of households eligible for R.E.A.Ch. services and benefits;

(D) a description of the methodology the State and local agencies will use to determine—

(i) which households will receive one or more forms of benefits under the State R.E.A.Ch. initiative;

(ii) the cases in which nonmonetary benefits are likely to provide more cost-effective long-term outcomes than payment benefits alone; and

(iii) the amount of such benefit required to meet the goals of the program;

(E) a method for targeting nonmonetary benefits;

(F) a description of the crisis and emergency assistance activities the State will undertake that are designed to—

(i) discourage family energy crises;

(ii) encourage responsible vendor and consumer behavior; and

(iii) provide only financial incentives that encourage household payment;

(G) a description of the activities the State will undertake to—

(i) provide incentives for recipients of assistance to pay home energy costs; and

(ii) provide incentives for vendors to help reduce the energy burdens of recipients of assistance;

(H) an assurance that the State will require each entity that receives a grant or enters into a contract under this section to solicit and be responsive to the views of individuals who are financially eligible for benefits and services under this section in establishing its local program;

(I) a description of performance goals for the State R.E.A.Ch. initiative including—

(i) a reduction in the energy costs of participating households over one or more fiscal years;

(ii) an increase in the regularity of home energy bill payments by eligible households; and

(iii) an increase in energy vendor contributions towards reducing energy burdens of eligible households;

(J) a description of the indicators that will be used by the State to measure whether the performance goals have been achieved;

(K) a demonstration that the plan is consistent with section 2603, paragraphs (2), (3), (4), (5), (7), (9), (10), (11), (12), (13), and (14) of section 2605(b), subsections (d), (e), (f), (g), (h), (i), and (j) of section 2605, and section 2606 of this title;

(L) an assurance that benefits and services will be provided in addition to other benefit payments and services provided under this title and in coordination with such benefit payments and services; and

(M) an assurance that no regulated utility covered by the plan will be required to act in a manner that is inconsistent with applicable regulatory requirements.

(f) COST OR FUNCTION.—None of the costs of providing services or benefits under this section shall be considered to be an administrative cost or function for purposes of any limitation on administrative costs or functions contained in this title.

(42 U.S.C. 8626b)

WITHHOLDING

SEC. 2608. (a)(1) The Secretary shall, after adequate notice and an opportunity for a hearing conducted within the affected State, withhold funds from any State which does not utilize its allotment substantially in accordance with the provisions of this title and the assurances such State provided under section 2605.

(2) The Secretary shall respond in writing in no more than 60 days to matters raised in complaints of a substantial or serious nature that a State has failed to use funds in accordance with the provisions of this title or the assurances provided by the State under section 2605. For purposes of this paragraph, a violation of any one of the assurances contained in section 2605(b) that con-

stitutes a disregard of such assurance shall be considered a serious complaint.

(b)(1) The Secretary shall conduct in several States in each fiscal year investigations of the use of funds received by the States under this title in order to evaluate compliance with the provisions of this title.

(2) Whenever the Secretary determines that there is a pattern of complaints from any State in any fiscal year, the Secretary shall conduct an investigation of the use of funds received under this title by such State in order to ensure compliance with the provisions of this title.

(3) The Comptroller General of the United States may conduct an investigation of the use of funds received under this title by a State in order to ensure compliance with the provisions of this title.

(c) Pursuant to an investigation conducted under subsection (b), a State shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

(d) In conducting any investigation under subsection (b), the Secretary may not request any information not readily available to such State or require that any information be compiled, collected, or transmitted in any new form not already available.

(42 U.S.C. 8627)

LIMITATION ON USE OF GRANTS FOR CONSTRUCTION

SEC. 2609. Grants made under this title may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this title, for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or other facility.

(42 U.S.C. 8628)

TECHNICAL ASSISTANCE, TRAINING, AND COMPLIANCE REVIEWS

SEC. 2609A. (a) Of the amounts appropriated under section 2602(b) for any fiscal year, not more than $300,000 of such amounts may be reserved by the Secretary—

(1) to—

(A) make grants to State and public agencies and private nonprofit organizations; or

(B) enter into contracts or jointly financed cooperative arrangements or interagency agreements with States and public agencies (including Federal agencies) and private nonprofit organizations;

to provide for training and technical assistance related to the purposes of this subtitle, including collection and dissemination of information about programs and projects assisted under this subtitle, and ongoing matters of regional or national significance that the Secretary finds would assist in the more effective provision of services under this title; or

(2) to conduct onsite compliance reviews of programs supported under this title.

(b) No provision of this section shall be construed to prevent the Secretary from making a grant pursuant to subsection (a) to one or more private nonprofit organizations that apply jointly with a business concern to receive such grant.

(42 U.S.C. 8628a)

STUDIES

SEC. 2610. (a) The Secretary, after consultation with the Secretary of Energy, shall provide for the collection of data, including—

(1) information concerning home energy consumption;

(2) the amount, cost and type of fuels used for households eligible for assistance under this title;

(3) the type of fuel used by various income groups;

(4) the number and income levels of households assisted by this title;

(5) the number of households which received such assistance and include one or more individuals who are 60 years or older or disabled or include young children; and

(6) any other information which the Secretary determines to be reasonably necessary to carry out the provisions of this title.

Nothing in this subsection may be construed to require the Secretary to collect data which has been collected and made available to the Secretary by any other agency of the Federal Government.

(b) The Secretary shall, no later than June 30 of each fiscal year, submit a report to the Congress containing a detailed compilation of the data under subsection (a) with respect to the prior fiscal year, and a report that describes for the prior fiscal year—

(1) the manner in which States carry out the requirements of clauses (2), (5), (8), and (15) of section 2605(b); and

(2) the impact of each State's program on recipient and eligible households.

(42 U.S.C. 8629)

REPEALER

SEC. 2611. Effective October 1, 1981, the Home Energy Assistance Act of 1980 is repealed.

(42 U.S.C. 8601 note)

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OMNIBUS BUDGET RECONCILIATION ACT OF 1981

[Public Law 97–35, August 13, 1981 (95 Stat. 357)]

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TITLE VI—HUMAN SERVICES PROGRAMS

Subtitle A—Authorizations Savings for Fiscal Years 1982, 1983, and 1984

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CHAPTER 8—COMMUNITY SERVICES PROGRAMS

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Subchapter B—Head Start Programs

SHORT TITLE

SEC. 635. This subchapter may be cited as the "Head Start Act".

(42 U.S.C. 9801 note)

SEC. 636. STATEMENT OF PURPOSE.

It is the purpose of this subchapter to promote school readiness by enhancing the social and cognitive development of low-income children through the provision, to low-income children and their families, of health, educational, nutritional, social, and other services that are determined, based on family needs assessments, to be necessary.

(42 U.S.C. 9831)

DEFINITIONS

SEC. 637. For purposes of this subchapter:

(1) The term "child with a disability" means—

(A) a child with a disability, as defined in section 602(3) of the Individuals with Disabilities Education Act; and

(B) an infant or toddler with a disability, as defined in section 632(5) of such Act.

(2) The term "delegate agency" means a public, private nonprofit, or for-profit organization or agency to which a grantee has delegated all or part of the responsibility of the grantee for operating a Head Start program.

(3) The term "family literacy services" means services that are of sufficient intensity in terms of hours, and of sufficient duration, to make sustainable changes in a family, and that integrate all of the following activities:

(A) Interactive literacy activities between parents and their children.

(B) Training for parents regarding how to be the primary teacher for their children and full partners in the education of their children.

(C) Parent literacy training that leads to economic self-sufficiency.

(D) An age-appropriate education to prepare children for success in school and life experiences.

(4) The term "financial assistance" includes assistance provided by grant, agreement, or contract, and payments may be made in installments and in advance or by way of reimbursement with necessary adjustments on account of overpayments or underpayments.

(5) The term "full calendar year" means all days of the year other than Saturday, Sunday, and a legal public holiday.

(6) The term "full-working-day" means not less than 10 hours per day. Nothing in this paragraph shall be construed to require an agency to provide services to a child who has not reached the age of compulsory school attendance for more than the number of hours per day permitted by State law (including regulation) for the provision of services to such a child.

(7) The term "Head Start classroom" means a group of children supervised and taught by two paid staff members (a teacher and a teacher's aide or two teachers) and, where possible, a volunteer.

(8) The term "Head Start family day care" means Head Start services provided in a private residence other than the residence of the child receiving such services.

(9) The term "home-based Head Start program" means a Head Start program that provides Head Start services in the private residence of the child receiving such services.

(10) The term "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Native village described in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)) or established pursuant to such 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 Indians because of their status as Indians.

(11) The term "local educational agency" has the meaning given such term in the Elementary and Secondary Education Act of 1965.

(12) The term "migrant and seasonal Head Start program" means—

(A) with respect to services for migrant farmworkers, a Head Start program that serves families who are engaged in agricultural labor and who have changed their residence from one geographic location to another in the preceding 2-year period; and

(B) with respect to services for seasonal farmworkers, a Head Start program that serves families who are engaged primarily in seasonal agricultural labor and who have not changed their residence to another geographic location in the preceding 2-year period.

(13) The term "mobile Head Start program" means the provision of Head Start services utilizing transportable equipment set up in various community-based locations on a routine, weekly schedule, operating in conjunction with home-based Head Start programs, or as a Head Start classroom.

(14) The term "poverty line" means the official poverty line (as defined by the Office of Management and Budget)—

(A) adjusted to reflect the percentage change in the Consumer Price Index For All Urban Consumers, issued by the Bureau of Labor Statistics, occurring in the 1-year period or other interval immediately preceding the date such adjustment is made; and

(B) adjusted for family size.

(15) The term "scientifically based reading research"—

(A) means the application of rigorous, systematic, and objective procedures to obtain valid knowledge relevant to reading development, reading instruction, and reading difficulties; and

(B) shall include research that—

(i) employs systematic, empirical methods that draw on observation or experiment;

(ii) involves rigorous data analyses that are adequate to test the stated hypotheses and justify the general conclusions drawn;

(iii) relies on measurements or observational methods that provide valid data across evaluators and observers and across multiple measurements and observations; and

(iv) has been accepted by a peer-reviewed journal or approved by a panel of independent experts through a comparably rigorous, objective, and scientific review.

(16) The term "Secretary" means the Secretary of Health and Human Services.

(17) The term "State" means a State, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands, but for fiscal years ending before October 1, 2001 (and fiscal year 2002, if the legislation described in section 640(a)(2)(B)(iii) has not been enacted before September 30, 2001), also means the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

(42 U.S.C. 9832)

FINANCIAL ASSISTANCE FOR HEAD START PROGRAMS

SEC. 638. The Secretary may, upon application by an agency which is eligible for designation as a Head Start agency pursuant to section 641, provide financial assistance to such agency for the planning, conduct, administration, and evaluation of a Head Start program focused primarily upon the children from low-income families who have not reached the age of compulsory school attendance which (1) will provide such comprehensive health, education, parental involvement, nutritional, social, and other services as will enable the children to attain their full potential and attain school

readiness; and (2) will provide for direct participation of the parents of such children in the development, conduct, and overall program direction at the local level.

(42 U.S.C. 9833)

AUTHORIZATION OF APPROPRIATIONS

SEC. 639. (a) There are authorized to be appropriated for carrying out the provisions of this subchapter such sums as may be necessary for fiscal years 1999 through 2003.

(b) From the amount appropriated under subsection (a), the Secretary shall make available—

(1) for each of fiscal years 1999 through 2003 to carry out activities authorized under section 642A, not more than $35,000,000 but not less than the amount that was made available for such activities for fiscal year 1998;

(2) not more than $5,000,000 for each of fiscal years 1999 through 2003 to carry out impact studies under section 649(g); and

(3) not more than $12,000,000 for fiscal year 1999, and such sums as may be necessary for each of fiscal years 2000 through 2003, to carry out other research, demonstration, and evaluation activities, including longitudinal studies, under section 649.

(42 U.S.C. 9834)

ALLOTMENT OF FUNDS; LIMITATIONS ON ASSISTANCE

SEC. 640. (a)(1) Of the sums appropriated pursuant to section 639 for any fiscal year beginning after September 30, 1981, the Secretary shall allot such sums in accordance with paragraphs (2) through (4), and subject to paragraphs (5) and (6).

(2) The Secretary shall reserve 13 percent of the amount appropriated for each fiscal year for use in accordance with the following order of priorities—

(A) Indian Head Start programs, services for children with disabilities, and migrant and seasonal Head Start programs, except that there shall be made available for each fiscal year for use by Indian Head Start programs and by migrant and seasonal Head Start programs, on a nationwide basis, not less than the amount that was obligated for use by Indian Head Start programs and by migrant and seasonal Head Start programs for fiscal year 1998;

(B) payments, subject to paragraph (7)—

(i) to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States;

(ii) for fiscal years ending before October 1, 2001, to the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau; and

(iii) if legislation approving renegotiated Compacts of Free Association for the jurisdictions described in clause (ii) has not been enacted before September 30, 2001, for fiscal year 2002 to those jurisdictions;

according to their respective needs, except that such amount shall not exceed one-half of 1 percent of the sums appropriated for any fiscal year;

(C) training and technical assistance activities which are sufficient to meet the needs associated with program expansion and to foster program and management improvement activities as described in section 648 of this subchapter, in an amount for each fiscal year which is not less than 2 percent of the amount appropriated for such fiscal year, of which not less than $3,000,000 of the amount appropriated for such fiscal year shall be made available to carry out activities described in section 648(c)(4);

(D) discretionary payments made by the Secretary (including payments for all costs (other than compensation of Federal employees) of reviews of Head Start agencies and programs under section 641A(c), and of activities carried out under paragraph (1), (2), or (3) of section 641A(d) related to correcting deficiencies and conducting proceedings to terminate the designation of Head Start agencies [1]; and

(E) payments for research, demonstration, and evaluation activities under section 649.

No funds reserved under this paragraph or paragraph (3) may be combined with funds appropriated under any other Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this subchapter are separately identified in such grant or payment and are used for the purposes of this subchapter. No Freely Associated State may receive financial assistance under this subchapter after fiscal year 2002.

(3)(A)(i) In order to provide assistance for activities specified in subparagraph (C) directed at the goals specified in subparagraph (B), the Secretary shall reserve, from the amount (if any) by which the funds appropriated under section 639(a) for a fiscal year exceed the adjusted prior year appropriation, a share equal to the sum of—

(I) 60 percent of such excess amount for fiscal year 1999, 50 percent of such excess amount for fiscal year 2000, 47.5 percent of such excess amount for fiscal year 2001, 35 percent of such excess amount for fiscal year 2002, and 25 percent of such excess amount for fiscal year 2003; and

(II) any additional amount the Secretary may find necessary to address a demonstrated need for such activities.

(ii) As used in clause (i), the term "adjusted prior year appropriation" means, with respect to a fiscal year, the amount appropriated pursuant to section 639(a) for the preceding fiscal year, adjusted to reflect the percentage change in the Consumer Price Index for All Urban Consumers (issued by the Bureau of Labor Statistics) during such preceding fiscal year.

(B) Funds reserved under this paragraph (referred to in this paragraph as "quality improvement funds") shall be used to accomplish any or all of the following goals:

(i) Ensuring that Head Start programs meet or exceed performance standards pursuant to section 641A(a)(1)(A).

[1] So in law. There should be a close paren after the word "agencies".

(ii) Ensuring that such programs have adequate numbers of qualified staff, and that such staff are furnished adequate training, including developing skills in working with children with non-English language background and children with disabilities, when appropriate.

(iii) Ensuring that salary levels and benefits are adequate to attract and retain qualified staff for such programs.

(iv) Using salary increases to improve staff qualifications, and to assist with the implementation of career development programs, for the staff of Head Start programs, and to encourage the staff to continually improve their skills and expertise by informing the staff of the availability of Federal and State incentive and loan forgiveness programs for professional development.

(v) Improving community-wide strategic planning and needs assessments for such programs and collaboration efforts for such programs.

(vi) Ensuring that the physical environments of Head Start programs are conducive to providing effective program services to children and families, and are accessible to children with disabilities and their parents.

(vii) Ensuring that such programs have qualified staff that can promote language skills and literacy growth of children and that can provide children with a variety of skills that have been identified, through scientifically based reading research, as predictive of later reading achievement.

(viii) Making such other improvements in the quality of such programs as the Secretary may designate.

(C) Quality improvement funds shall be used to carry out any or all of the following activities:

(i)(I) Not less than one-half of the amount reserved under this paragraph, to improve the compensation (including benefits) of classroom teachers and other staff of Head Start agencies and thereby enhance recruitment and retention of qualified staff, including recruitment and retention pursuant to achieving the requirements set forth in section 648A(a). The expenditure of funds under this clause shall be subject to section 653. Preferences in awarding salary increases, in excess of cost-of-living allowances, with such funds shall be granted to classroom teachers and staff who obtain additional training or education related to their responsibilities as employees of a Head Start program.

(II) If a Head Start agency certifies to the Secretary for such fiscal year that part of the funds set aside under subclause (I) to improve wages cannot be expended by such agency to improve wages because of the operation of section 653, then such agency may expend such part for any of the uses specified in this subparagraph (other than wages).

(III) From the remainder of the amount reserved under this paragraph (after the Secretary carries out subclause (I)), the Secretary shall carry out any or all of the activities described in clauses (ii) through (vii), placing the highest priority on the activities described in clause (ii).

(ii) To train classroom teachers and other staff to meet the education performance standards described in section 641A(a)(1)(B), through activities—

(I) to promote children's language and literacy growth, through techniques identified through scientifically based reading research;

(II) to promote the acquisition of the English language for non-English background children and families;

(III) to foster children's school readiness skills through activities described in section 648A(a)(1); and

(IV) to provide training necessary to improve the qualifications of the staff of the Head Start agencies and to support staff training, child counseling, and other services necessary to address the problems of children participating in Head Start programs, including children from dysfunctional families, children who experience chronic violence in their communities, and children who experience substance abuse in their families.

(iii) To employ additional Head Start staff, including staff necessary to reduce the child-staff ratio and staff necessary to coordinate a Head Start program with other services available to children participating in such program and to their families.

(iv) To pay costs incurred by Head Start agencies to purchase insurance (other than employee benefits) and thereby maintain or expand Head Start services.

(v) To supplement amounts provided under paragraph (2)(C) to provide training necessary to improve the qualifications of the staff of the Head Start agencies, and to support staff training, child counseling, and other services necessary to address the problems of children participating in Head Start programs, including children from dysfunctional families, children who experience chronic violence in their communities, and children who experience substance abuse in their families.

(vi) Such other activities as the Secretary may designate.

(D)(i) Funds reserved under subparagraph (A) shall be allotted by the Secretary as follows:

(I) 80 percent of such funds shall be allotted among the States in the same proportion as the Secretary allots funds among the States under paragraph (4) for the respective fiscal year.

(II) 20 percent of such funds shall be allotted among the States, geographical areas specified in subsection (a)(2)(B) and Indian Head Start programs and migrant and seasonal Head Start programs, and used to make grants to Head Start agencies, at the discretion of the Secretary.

(ii) Funds allotted under clause (i) shall be used by the Secretary to make grants to Head Start agencies that receive grants from funds allotted under paragraph (4) for such fiscal year, in such amounts as the Secretary considers to be appropriate, for expenditure for activities specified in subparagraph (C).

(iii) Funds received under this subparagraph shall be used to supplement, not to supplant, funds received under paragraph (2) or (4).

(4) Subject to section 639(b), the Secretary shall allot the remaining amounts appropriated in each fiscal year among the States, in accordance with latest satisfactory data so that—

(A) each State receives an amount which is equal to the amount the State received for fiscal year 1998; and

(B) any amount available after all allotments are made under subparagraph (A) for such fiscal year shall be distributed proportionately on the basis of the number of children less than 5 years of age from families whose income is below the poverty line.

For purposes of this paragraph, for each fiscal year the Secretary shall use the most recent data available on the number of children less than 5 years of age from families whose income is below the poverty line, as published by the Department of Commerce, unless the Secretary and the Secretary of Commerce determine that use of the most recent data available would be inappropriate or unreliable. If the Secretary and the Secretary of Commerce determine that some or all of the data referred to in this paragraph are inappropriate or unreliable, the Secretaries shall issue a report setting forth their reasons in detail.

(5)(A) From amounts reserved and allotted pursuant to paragraph (4), the Secretary shall reserve such sums as may be necessary to award the collaboration grants described in subparagraphs (B) and (D).

(B) From the reserved sums, the Secretary may award a collaboration grant to each State to facilitate collaboration regarding activities carried out in the State under this subchapter, and other activities carried out in, and by, the State that are designed to benefit low-income children and families and to encourage Head Start agencies to collaborate with entities involved in State and local planning processes (including the State lead agency administering the financial assistance received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) and the entities providing resource and referral services in the State) in order to better meet the needs of low-income children and families.

(C) A State that receives a grant under subparagraph (B) shall—

(i) appoint an individual to serve as a State liaison between—

(I) the appropriate regional office of the Administration for Children and Families and agencies and individuals carrying out Head Start programs in the State; and

(II) agencies (including local educational agencies) and entities carrying out programs serving low-income children and families;

(ii) involve the State Head Start Association in the selection of the individual, and involve the association in determinations relating to the ongoing direction of the collaboration;

(iii) ensure that the individual holds a position with sufficient authority and access to ensure that the collaboration described in subparagraph (B) is effective and involves a range of State agencies;

(iv) ensure that the collaboration described in subparagraph (B) involves coordination of Head Start services with health care, welfare, child care, education, and community

service activities, family literacy services, activities relating to children with disabilities (including coordination of services with those State officials who are responsible for administering part C and section 619 of the Individuals with Disabilities Education Act (20 U.S.C. 1431–1445, 1419)), and services for homeless children;

(v) include representatives of the State Head Start Association and local Head Start agencies in unified planning regarding early care and education services at both the State and local levels, including collaborative efforts to plan for the provision of full-working-day, full calendar year early care and education services for children; and

(vi) encourage local Head Start agencies to appoint a State level representative to represent Head Start agencies within the State in conducting collaborative efforts described in subparagraphs (B) and (D), and in clause (v).

(D) Following the award of collaboration grants described in subparagraph (B), the Secretary shall provide, from the reserved sums, supplemental funding for collaboration grants—

(i) to States that (in consultation with their State Head Start Associations) develop statewide, regional, or local unified plans for early childhood education and child care that include the participation of Head Start agencies; and

(ii) to States that engage in other innovative collaborative initiatives, including plans for collaborative training and professional development initiatives for child care, early childhood education and Head Start service managers, providers, and staff.

(E)(i) The Secretary shall—

(I) review on an ongoing basis evidence of barriers to effective collaboration between Head Start programs and other Federal, State, and local child care and early childhood education programs and resources;

(II) develop initiatives, including providing additional training and technical assistance and making regulatory changes, in necessary cases, to eliminate barriers to the collaboration; and

(III) develop a mechanism to resolve administrative and programmatic conflicts between programs described in subclause (I) that would be a barrier to service providers, parents, or children related to the provision of unified services and the consolidation of funding for child care services.

(ii) In the case of a collaborative activity funded under this subchapter and another provision of law providing for Federal child care or early childhood education, the use of equipment and nonconsumable supplies purchased with funds made available under this subchapter or such provision shall not be restricted to children enrolled or otherwise participating in the program carried out under that subchapter or provision, during a period in which the activity is predominantly funded under this subchapter or such provision.

(F) As used in this paragraph, the term "low-income", used with respect to children or families, shall not be considered to refer only to children or families that meet the low-income criteria prescribed pursuant to section 645(a)(1)(A).

(6)(A) From amounts reserved and allotted pursuant to paragraphs (2) and (4), the Secretary shall use, for grants for programs described in section 645A(a), a portion of the combined total of such amounts equal to 7.5 percent for fiscal year 1999, 8 percent for fiscal year 2000, 9 percent for fiscal year 2001, 10 percent for fiscal year 2002, and 10 percent for fiscal year 2003, of the amount appropriated pursuant to section 639(a), except as provided in subparagraph (B).

(B)(i) If the Secretary does not submit an interim report on the preliminary findings of the Early Head Start impact study currently being conducted by the Secretary (as of the date of enactment of the Head Start Amendments of 1998) to the appropriate committees by June 1, 2001, the amount of the reserved portion for fiscal year 2002 that exceeds the reserved portion for fiscal year 2001, if any, shall be used for quality improvement activities described in section 640(a)(3) and shall not be used to serve an increased number of eligible children under section 645A.

(ii) If the Secretary does not submit a final report on the Early Head Start impact study to the appropriate committees by June 1, 2002, or if the Secretary finds in the report that there are substantial deficiencies in the programs carried out under section 645A, the amount of the reserved portion for fiscal year 2003 that exceeds the reserved portion for fiscal year 2002, if any, shall be used for quality improvement activities described in section 640(a)(3) and shall not be used to serve an increased number of eligible children under section 645A.

(iii) In this subparagraph:

(I) The term "appropriate committees" means the Committee on Education and the Workforce and the Committee on Appropriations of the House of Representatives and the Committee on Labor and Human Resources and the Committee on Appropriations of the Senate.

(II) The term "reserved portion", used with respect to a fiscal year, means the amount required to be used in accordance with subparagraph (A) for that fiscal year.

(C)(i) For any fiscal year for which the Secretary determines that the amount appropriated under section 639(a) is not sufficient to permit the Secretary to reserve the portion described in subparagraph (A) without reducing the number of children served by Head Start programs or adversely affecting the quality of Head Start services, relative to the number of children served and the quality of the services during the preceding fiscal year, the Secretary may reduce the percentage of funds required to be reserved for the portion described in subparagraph (A) for the fiscal year for which the determination is made, but not below the percentage required to be so reserved for the preceding fiscal year.

(ii) For any fiscal year for which the amount appropriated under section 639(a) is reduced to a level that requires a lower amount to be made available under this subchapter to Head Start agencies and entities described in section 645A, relative to the amount made available to the agencies and entities for the preceding fiscal year, adjusted as described in paragraph (3)(A)(ii), the Secretary shall proportionately reduce—

(I) the amounts made available to the entities for programs carried out under section 645A; and

(II) the amounts made available to Head Start agencies for Head Start programs.

(7) For purposes of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau.

(b) Financial assistance extended under this subchapter for a Head Start program shall not exceed 80 percent of the approved costs of the assisted program or activities, except that the Secretary may approve assistance in excess of such percentage if the Secretary determines that such action is required in furtherance of the purposes of this subchapter. For the purpose of making such determination, the Secretary shall take into consideration with respect to the Head Start program involved—

(1) the lack of resources available in the community that may prevent the Head Start agency from providing all or a portion of the non-Federal contribution that may be required under this subsection;

(2) the impact of the cost the Head Start agency may incur in initial years it carries out such program;

(3) the impact of an unanticipated increase in the cost the Head Start agency may incur to carry out such program;

(4) whether the Head Start agency is located in a community adversely affected by a major disaster; and

(5) the impact on the community that would result if the Head Start agency ceased to carry out such program.

Non-Federal contributions may be in cash or in kind, fairly evaluated, including plant, equipment, or services. The Secretary shall not require non-Federal contributions in excess of 20 percent of the approved costs of programs or activities assisted under this subchapter.

(c) No programs shall be approved for assistance under this subchapter unless the Secretary is satisfied that the services to be provided under such program will be in addition to, and not in substitution for, comparable services previously provided without Federal assistance. The requirement imposed by the preceding sentence shall be subject to such regulations as the Secretary may prescribe.

(d) The Secretary shall establish policies and procedures designed to assure that for fiscal year 1999 and thereafter no less than 10 percent of the total number of enrollment opportunities in Head Start programs in each State shall be available for children with disabilities and that services shall be provided to meet their special needs. Such policies and procedures shall require Head Start agencies to coordinate programmatic efforts with efforts to implement part C and section 619 of the Individuals with Disabilities Education Act (20 U.S.C [1] 1431–1445, 1419).

(e) The Secretary shall adopt approximate administrative measures to assure that the benefits of this subchapter will be distributed equitably between residents of rural and urban areas.

(f) The Secretary shall establish procedures to enable Head Start agencies to develop locally designed or specialized service delivery models to address local community needs.

[1] So in law. Should probably be "U.S.C.".

(g)(1) If in any fiscal year, the amounts appropriated to carry out the program under this subchapter exceed the amount appropriated in the prior fiscal year, the Secretary shall, prior to using such additional funds to serve an increased number of children, allocate such funds in a manner that makes available the funds necessary to maintain the level of services provided during the prior year, taking into consideration the percentage change in the Consumer Price Index For All Urban Consumers, as published by the Bureau of Labor Statistics.

(2) For the purpose of expanding Head Start programs, in allocating funds to an applicant within a State, from amounts allotted to a State pursuant to subsection (a)(4), the Secretary shall take into consideration—

(A) the quality of the applicant's programs (including Head Start and other child care or child development programs) in existence on the date of the allocation, including, in the case of Head Start programs in existence on the date of the allocation, the extent to which such programs meet or exceed performance standards and other requirements under this subchapter, and the performance history of the applicant in providing services under other Federal programs (other than the program carried out under this subchapter);

(B) the applicant's capacity to expand services (including, in the case of Head Start programs in existence on the date of the allocation, whether the applicant accomplished any prior expansions in an effective and timely manner);

(C) the extent to which the applicant has undertaken community-wide strategic planning and needs assessments involving other community organizations and public agencies serving children and families (including organizations serving families in whose homes English is not the language customarily spoken), and organizations and public entities serving children with disabilities;

(D) the extent to which the family and community needs assessment of the applicant reflects a need to provide full-working-day or full calendar year services and the extent to which, and manner in which, the applicant demonstrates the ability to collaborate and participate with other local community providers of child care or preschool services to provide full-working-day full calendar year services;

(E) the numbers of eligible children in each community who are not participating in a Head Start program or any other early childhood program;

(F) the concentration of low-income families in each community;

(G) the extent to which the applicant proposes to foster partnerships with other service providers in a manner that will enhance the resource capacity of the applicant; and

(H) the extent to which the applicant, in providing services, plans to coordinate with the local educational agency serving the community involved and with schools in which children participating in a Head Start program operated by such agency will enroll following such program, regarding such services and the education services provided by such local educational agency.

(3) In determining the amount of funds reserved pursuant to subparagraph (A) or (B) of subsection (a)(2) to be used for expanding Head Start programs under this subchapter, the Secretary shall take into consideration, to the extent appropriate, the factors specified in paragraph (2).

(4) Notwithstanding subsection (a)(2), after taking into account paragraph (1), the Secretary may allocate a portion of the remaining additional funds under subsection (a)(2)(A) for the purpose of increasing funds available for activities described in such subsection.

(h) Financial assistance provided under this subchapter may be used by each Head Start program to provide full-working-day Head Start services to any eligible child throughout the full calendar year.

(i) The Secretary shall issue regulations establishing requirements for the safety features, and the safe operation, of vehicles used by Head Start agencies to transport children participating in Head Start programs.

(j) Any agency that receives financial assistance under this subchapter to improve the compensation of staff who provide services under this Act shall use the financial assistance to improve the compensation of such staff, regardless of whether the agency has the ability to improve the compensation of staff employed by the agency who do not provide Head Start services.

(k)(1) The Secretary shall allow center-based Head Start programs the flexibility to satisfy the total number of hours of service required by the regulations in effect on the date of enactment of the Human Services Amendments of 1994, to be provided to children in Head Start programs so long as such agencies do not—

(A) provide less than 3 hours of service per day;

(B) reduce the number of days of service per week; or

(C) reduce the number of days of service per year.

(2) The provisions of this subsection shall not be construed to restrict the authority of the Secretary to fund alternative program variations authorized under section 1306.35 of title 45 of the Code of Federal Regulations in effect on the date of enactment of the Human Services Amendments of 1994.

(l)(1) With funds made available under section 640(a)(2) to migrant and seasonal Head Start programs, the Secretary shall give priority to migrant and seasonal Head Start programs that serve eligible children of migrant and seasonal farmworker families whose work requires them to relocate most frequently.

(2) For purposes of subsection (a)(2)(A), in determining the need and demand for migrant and seasonal Head Start programs (and services provided through such programs), the Secretary shall consult with appropriate entities, including providers of services for migrant and seasonal Head Start programs. The Secretary shall, after taking into consideration the need and demand for migrant and seasonal Head Start programs (and such services), ensure that there is an adequate level of such services for eligible children of migrant farmworkers before approving an increase in the allocation of funds provided under such subsection for unserved eligible children of seasonal farmworkers. In serving the eligible children of seasonal farmworkers, the Secretary shall ensure that services provided by migrant and seasonal Head Start programs do not dupli-

cate or overlap with other Head Start services available to eligible children of such farmworkers.

(3) In carrying out this subchapter, the Secretary shall continue the administrative arrangement responsible for meeting the needs of children of migrant and seasonal farmworkers and Indian children and shall ensure that appropriate funding is provided to meet such needs.

(42 U.S.C. 9835)

[Section 640A was repealed by section 106 of the Human Services Amendments of 1994, 108 Stat. 629.]

DESIGNATION OF HEAD START AGENCIES

SEC. 641. (a) The Secretary is authorized to designate as a Head Start agency any local public or private nonprofit or for-profit agency, within a community, which (1) has the power and authority to carry out the purposes of this subchapter and perform the functions set forth in section 642 within a community; and (2) is determined by the Secretary (in consultation with the chief executive officer of the State involved, if such State expends non-Federal funds to carry out Head Start programs) to be capable of planning, conducting, administering, and evaluating, either directly or by other arrangements, a Head Start program.

(b) For purposes of this subchapter, a community may be a city, county, or multicity or multicounty unit within a State, an Indian reservation (including Indians in any off-reservation area designated by an appropriate tribal government in consultation with the Secretary), or a neighborhood or other area (irrespective of boundaries or political subdivisions) which provides a suitable organizational base and possesses the commonality of interest needed to operate a Head Start program.

(c)(1) In the administration of the provisions of this section (subject to paragraph (2)), the Secretary shall, in consultation with the chief executive officer of the State involved if such State expends non-Federal funds to carry out Head Start programs, give priority in the designation of Head Start agencies to any local public or private nonprofit or for-profit agency which is receiving funds under any Head Start program on the date of the enactment of this Act unless the Secretary determines that the agency involved fails to meet program and financial management requirements, performance standards described in section 641A(a)(1), results-based performance measures developed by the Secretary under section 641A(b), or other requirements established by the Secretary.

(2) If there is no agency of the type referred to in paragraph (1) because of any change in the assistance furnished to programs for economically disadvantaged persons, the Secretary shall, in consultation with the chief executive officer of the State if such State expends non-Federal funds to carry out Head Start programs, give priority in the designation of Head Start agencies to any successor agency that is operating a Head Start program in substantially the same manner as the predecessor agency that did receive funds in the fiscal year preceding the fiscal year for which the determination is made.

(3) Notwithstanding any other provision of this subsection, the Secretary shall not give such priority to any agency with respect to which financial assistance has been terminated, or an application for refunding has been denied, under this subchapter by the Secretary after affording such agency reasonable notice and opportunity for a full and fair hearing in accordance with section 646(a)(3).

(d) If no entity in a community is entitled to the priority specified in subsection (c), then the Secretary may designate a Head Start agency from among qualified applicants in such community. In selecting from among qualified applicants for designation as a Head Start agency, the Secretary shall give priority to any qualified agency that functioned as a Head Start delegate agency in the community and carried out a Head Start program that the Secretary determines met or exceeded such performance standards and such results-based performance measures. In selecting from among qualified applicants for designation as a Head Start agency, the Secretary shall consider the effectiveness of each such applicant to provide Head Start services, based on—

(1) any past performance of such applicant in providing services comparable to Head Start services, including how effectively such applicant provided such comparable services;

(2) the plan of such applicant to provide comprehensive health, nutritional, educational, social, and other services needed to aid participating children in attaining their full potential;

(3) the plan of such applicant to coordinate the Head Start program it proposes to carry out, with other preschool programs, including Even Start programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.) and programs under part C and section 619 of the Individuals with Disabilities Education Act (20 U.S.C[1] 1431–1445, 1419), and with the educational programs such children will enter at the age of compulsory school attendance;

(4) the plan of such applicant—

(A) to seek the involvement of parents of participating children in activities (at home and in the center involved where practicable) designed to help such parents become full partners in the education of their children;

(B) to afford such parents the opportunity to participate in the development, conduct, and overall performance of the program at the local level;

(C) to offer (directly or through referral to local entities, such as entities carrying out Even Start programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.), public and school libraries, and family support programs) to such parents—

(i) family literacy services; and

(ii) parenting skills training;

(D) to offer to parents of participating children substance abuse counseling (either directly or through referral

[1] So in law. Should probably be "U.S.C.".

to local entities), including information on drug-exposed infants and fetal alcohol syndrome;

(E) at the option of such applicant, to offer (directly or through referral to local entities) to such parents—

(i) training in basic child development;

(ii) assistance in developing communication skills;

(iii) opportunities for parents to share experiences with other parents; or

(iv) any other activity designed to help such parents become full partners in the education of their children; and

(F) to provide, with respect to each participating family, a family needs assessment that includes consultation with such parents about the benefits of parent involvement and about the activities described in subparagraphs (C) (D), and (E) in which such parents may choose to become involved (taking into consideration their specific family needs, work schedules, and other responsibilities);

(5) the ability of such applicant to carry out the plans described in paragraphs (2), (3), and (4);

(6) other factors related to the requirements of this subchapter;

(7) the plan of such applicant to meet the needs of non-English background children and their families, including needs related to the acquisition of the English language;

(8) the plan of such applicant to meet the needs of children with disabilities;

(9) the plan of such applicant who chooses to assist younger siblings of children who will participate in the proposed Head Start program to obtain health services from other sources; and

(10) the plan of such applicant to collaborate with other entities carrying out early childhood education and child care programs in the community.

(e) If no agency in the community receives priority designation under subsection (c), and there is no qualified applicant in the community, the Secretary shall designate a qualified agency to carry out the Head Start program in the community on an interim basis until a qualified applicant from the community is so designated.

(f) The Secretary shall require that the practice of significantly involving parents and area residents affected by the program in selection of Head Start agencies be continued.

(g) If the Secretary determines that a nonprofit agency and a for-profit agency have submitted applications for designation of equivalent quality under subsection (d), the Secretary may give priority to the nonprofit agency. In selecting from among qualified applicants for designation as a Head Start agency under subsection (d), the Secretary shall give priority to applicants that have demonstrated capacity in providing comprehensive early childhood services to children and their families.

(42 U.S.C. 9836)

SEC. 641A. QUALITY STANDARDS; MONITORING OF HEAD START AGENCIES AND PROGRAMS.

(a) QUALITY STANDARDS.—

(1) ESTABLISHMENT OF STANDARDS.—The Secretary shall establish by regulation standards, including minimum levels of overall accomplishment, applicable to Head Start agencies, programs, and projects under this subchapter, including—

(A) performance standards with respect to services required to be provided, including health, parental involvement, nutritional, social, transition activities described in section 642(d), and other services;

(B)(i) education performance standards to ensure the school readiness of children participating in a Head Start program, on completion of the Head Start program and prior to entering school; and

(ii) additional education performance standards to ensure that the children participating in the program, at a minimum—

(I) develop phonemic, print, and numeracy awareness;

(II) understand and use language to communicate for various purposes;

(III) understand and use increasingly complex and varied vocabulary;

(IV) develop and demonstrate an appreciation of books; and

(V) in the case of non-English background children, progress toward acquisition of the English language. [1]

(C) administrative and financial management standards;

(D) standards relating to the condition and location of facilities for such agencies, programs, and projects; and

(E) such other standards as the Secretary finds to be appropriate.

(2) CONSIDERATIONS IN DEVELOPING STANDARDS.—In developing the regulations required under paragraph (1), the Secretary shall—

(A) consult with experts in the fields of child development, early childhood education, child health care, family services (including linguistically and culturally appropriate services to non-English language background children and their families), administration, and financial management, and with persons with experience in the operation of Head Start programs;

(B) take into consideration—

(i) past experience with use of the standards in effect under this subchapter on the date of enactment of this section;

(ii) changes over the period since the date of enactment of this Act in the circumstances and problems typically facing children and families served by Head Start agencies;

(iii) developments concerning best practices with respect to early childhood education and development,

[1] So in law. Should probably be a semicolon.

children with disabilities, family services, program administration, and financial management;

(iv) projected needs of an expanding Head Start program;

(v) guidelines and standards currently in effect or under consideration that promote child health services, and projected needs of expanding Head Start programs;

(vi) changes in the population of children who are eligible to participate in Head Start programs, including the language background and family structure of such children; and

(vii) the need for, and state-of-the-art developments relating to, local policies and activities designed to ensure that children participating in Head Start programs make a successful transition to public schools; and

(C)(i) review and revise as necessary the performance standards in effect under this subsection; and

(ii) ensure that any such revisions in the performance standards will not result in the elimination of or any reduction in the scope or types of health, education, parental involvement, nutritional, social, or other services required to be provided under such standards as in effect on the date of enactment of the Coats Human Services Reauthorization Act of 1998.

(3) STANDARDS RELATING TO OBLIGATIONS TO DELEGATE AGENCIES.—In developing standards under this subsection, the Secretary shall describe the obligations of a Head Start agency to a delegate agency to which the Head Start agency has delegated responsibility for providing services under this subchapter and determine whether the Head Start agency complies with the standards. The Secretary shall consider such compliance during the review described in subsection (c)(1)(A) and in determining whether to renew financial assistance to the Head Start agency under this subchapter.

(b) RESULTS-BASED PERFORMANCE MEASURES.—

(1) IN GENERAL.—The Secretary, in consultation with representatives of Head Start agencies and with experts in the fields of early childhood education and development, family services, and program management, shall develop methods and procedures for measuring, annually and over longer periods, the quality and effectiveness of programs operated by Head Start agencies, and the impact of the services provided through the programs to children and their families (referred to in this subchapter as "results-based performance measures").

(2) CHARACTERISTICS OF MEASURES.—The performance measures developed under this subsection shall—

(A) be used to assess the impact of the various services provided by Head Start programs and, to the extent the Secretary finds appropriate, administrative and financial management practices of such programs;

(B) be adaptable for use in self-assessment, peer review, and program evaluation of individual Head Start agencies and programs, not later than July 1, 1999; and

(C) be developed for other program purposes as determined by the Secretary.

The performance measures shall include the performance standards described in subsection (a)(1)(B)(ii).

(3) USE OF MEASURES.—The Secretary shall use the performance measures developed pursuant to this subsection—

(A) to identify strengths and weaknesses in the operation of Head Start programs nationally, regionally, and locally; and

(B) to identify problem areas that may require additional training and technical assistance resources.

(4) EDUCATIONAL PERFORMANCE MEASURES.—Such results-based performance measures shall include educational performance measures that ensure that children participating in Head Start programs—

(A) know that letters of the alphabet are a special category of visual graphics that can be individually named;

(B) recognize a word as a unit of print;

(C) identify at least 10 letters of the alphabet; and

(D) associate sounds with written words.

(5) ADDITIONAL LOCAL RESULTS-BASED PERFORMANCE MEASURES.—In addition to other applicable results-based performance measures, Head Start agencies may establish local results-based educational performance measures.

(c) MONITORING OF LOCAL AGENCIES AND PROGRAMS.—

(1) IN GENERAL.—In order to determine whether Head Start agencies meet standards established under this subchapter and results-based performance measures developed by the Secretary under subsection (b) with respect to program, administrative, financial management, and other requirements, the Secretary shall conduct the following reviews of designated Head Start agencies, and of the Head Start programs operated by such agencies:

(A) A full review of each such agency at least once during each 3-year period.

(B) A review of each newly designated agency immediately after the completion of the first year such agency carries out a Head Start program.

(C) Followup reviews including prompt return visits to agencies and programs that fail to meet the standards.

(D) Other reviews as appropriate.

(2) CONDUCT OF REVIEWS.—The Secretary shall ensure that reviews described in subparagraphs (A) through (C) of paragraph (1)—

(A) are performed, to the maximum extent practicable, by employees of the Department of Health and Human Services who are knowledgeable about Head Start programs;

(B) are supervised by such an employee at the site of such Head Start agency;

(C) are conducted by review teams that shall include individuals who are knowledgeable about Head Start programs and, to the maximum extent practicable, the diverse (including linguistic and cultural) needs of eligible children (including children with disabilities) and their families;

(D) include as part of the reviews of the programs, a review and assessment of program effectiveness, as measured in accordance with the results-based performance measures developed by the Secretary pursuant to subsection (b) and with the performance standards established pursuant to subparagraphs (A) and (B) of subsection (a)(1); and

(E) seek information from the communities and the States involved about the performance of the programs and the efforts of the Head Start agencies to collaborate with other entities carrying out early childhood education and child care programs in the community.

(d) CORRECTIVE ACTION; TERMINATION.—

(1) DETERMINATION.—If the Secretary determines, on the basis of a review pursuant to subsection (c), that a Head Start agency designated pursuant to section 641 fails to meet the standards described in subsection (a) or results-based performance measures developed by the Secretary under subsection (b), the Secretary shall—

(A) inform the agency of the deficiencies that shall be corrected;

(B) with respect to each identified deficiency, require the agency—

(i) to correct the deficiency immediately, if the Secretary finds that the deficiency threatens the health or safety of staff or program participants or poses a threat to the integrity of Federal funds;

(ii) to correct the deficiency not later than 90 days after the identification of the deficiency if the Secretary finds, in the discretion of the Secretary, that such a 90-day period is reasonable, in light of the nature and magnitude of the deficiency; or

(iii) in the discretion of the Secretary (taking into consideration the seriousness of the deficiency and the time reasonably required to correct the deficiency), to comply with the requirements of paragraph (2) concerning a quality improvement plan; and

(C) initiate proceedings to terminate the designation of the agency unless the agency corrects the deficiency.

(2) QUALITY IMPROVEMENT PLAN.—

(A) AGENCY RESPONSIBILITIES.—In order to retain a designation as a Head Start agency under this subchapter, a Head Start agency that is the subject of a determination described in paragraph (1) (other than an agency required to correct a deficiency immediately or during a 90-day period under clause (i) or (ii) of paragraph (1)(B)) shall—

(i) develop in a timely manner, obtain the approval of the Secretary regarding, and implement a quality improvement plan that specifies—

(I) the deficiencies to be corrected;

(II) the actions to be taken to correct such deficiencies; and

(III) the timetable for accomplishment of the corrective actions specified; and

(ii) eliminate each deficiency identified, not later than the date for elimination of such deficiency specified in such plan (which shall not be later than 1 year after the date the agency received notice of the determination and of the specific deficiency to be corrected).

(B) SECRETARIAL RESPONSIBILITY.—Not later than 30 days after receiving from a Head Start agency a proposed quality improvement plan pursuant to subparagraph (A), the Secretary shall either approve such proposed plan or specify the reasons why the proposed plan cannot be approved.

(3) TRAINING AND TECHNICAL ASSISTANCE.—The Secretary shall provide training and technical assistance to Head Start agencies with respect to the development or implementation of such quality improvement plans to the extent the Secretary finds such provision to be feasible and appropriate given available funding and other statutory responsibilities.

(e) SUMMARIES OF MONITORING OUTCOMES.—Not later than 120 days after the end of each fiscal year, the Secretary shall publish a summary report on the findings of reviews conducted under subsection (c) and on the outcomes of quality improvement plans implemented under subsection (d), during such fiscal year. Such report shall be widely disseminated and available for public review in both written and electronic formats.

(42 U.S.C. 9836a)

POWERS AND FUNCTIONS OF HEAD START AGENCIES

SEC. 642. (a) In order to be designated as a Head Start agency under this subchapter, an agency must have authority under its charter or applicable law to receive and administer funds under this subchapter, funds and contributions from private or local public sources which may be used in support of a Head Start program, and funds under any Federal or State assistance program pursuant to which a public or private nonprofit or for-profit agency (as the case may be) organized in accordance with this subchapter, could act as grantee, contractor, or sponsor of projects appropriate for inclusion in a Head Start program. Such an agency must also be empowered to transfer funds so received, and to delegate powers to other agencies, subject to the powers of its governing board and it overall program responsibilities. The power to transfer funds and delegate powers must include the power to make transfers and delegations covering component projects in all cases where this will contribute to efficiency and effectiveness or otherwise further program objectives.

(b) In order to be so designated, a Head Start agency shall also—

(1) establish effective procedures by which parents and area residents concerned will be enabled to directly participate in decisions that influence the character of programs affecting their interests;

(2) provide for their regular participation in the implementation of such programs;

(3) provide technical and other support needed to enable parents and area residents to secure on their own behalf available assistance from public and private sources;

(4) seek the involvement of parents of participating children in activities designed to help such parents become full partners in the education of their children, and to afford such parents the opportunity to participate in the development, conduct, and overall performance of the program at the local level;

(5) offer (directly or through referral to local entities, such as entities carrying out Even Start programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.)), to parents of participating children, family literacy services and parenting skills training;

(6) offer to parents of participating children substance abuse counseling (either directly or through referral to local entities), including information on drug-exposed infants and fetal alcohol syndrome;

(7) at the option of such agency, offer (directly or through referral to local entities), to such parents—

(A) training in basic child development;

(B) assistance in developing communication skills;

(C) opportunities to share experiences with other parents;

(D) regular in-home visitation; or

(E) any other activity designed to help such parents become full partners in the education of their children;

(8) provide, with respect to each participating family, a family needs assessment that includes consultation with such parents about the benefits of parent involvement and about the activities described in paragraphs (4) through (7) in which such parents may choose to be involved (taking into consideration their specific family needs, work schedules, and other responsibilities);

(9) consider providing services to assist younger siblings of children participating in its Head Start program to obtain health services from other sources;

(10) perform community outreach to encourage individuals previously unaffiliated with Head Start programs to participate in its Head Start program as volunteers; and

(11)(A) inform custodial parents in single-parent families that participate in programs, activities, or services carried out or provided under this subchapter about the availability of child support services for purposes of establishing paternity and acquiring child support; and

(B) refer eligible parents to the child support offices of State and local governments.

(c) The head of each Head Start agency shall coordinate and collaborate with the State agency responsible for administering the State program carried out under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.), and other early childhood education and development programs, including Even Start programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2741 et seq.) and programs under part C and section 619 of the Individuals with

Disabilities Education Act (20 U.S.C 1431–1445, 1419), serving the children and families served by the Head Start agency to carry out the provisions of this subchapter.

(d)(1) Each Head Start agency shall take steps to ensure, to the maximum extent possible, that children maintain the developmental and educational gains achieved in Head Start programs and build upon such gains in further schooling.

(2) A Head Start agency may take steps to coordinate with the local educational agency serving the community involved and with schools in which children participating in a Head Start program operated by such agency will enroll following such program, including—

(A) collaborating on the shared use of transportation and facilities; and

(B) exchanging information on the provision of noneducational services to such children.

(3) In order to promote the continued involvement of the parents of children that participate in Head Start programs in the education of their children upon transition to school, the Head Start agency shall—

(A) provide training to the parents—

(i) to inform the parents about their rights and responsibilities concerning the education of their children; and

(ii) to enable the parents to understand and work with schools in order to communicate with teachers and other school personnel, to support the school work of their children, and to participate as appropriate in decisions relating to the education of their children; and

(B) take other actions, as appropriate and feasible, to support the active involvement of the parents with schools, school personnel, and school-related organizations.

(4) The Secretary, in cooperation with the Secretary of Education, shall—

(A) evaluate the effectiveness of the projects and activities funded under section 642A;

(B) disseminate to Head Start agencies information (including information from the evaluation required by subparagraph (A)) on effective policies and activities relating to the transition of children from Head Start programs to public schools; and

(C) provide technical assistance to such agencies to promote and assist such agencies to adopt and implement such effective policies and activities.

(e) Head Start agencies shall adopt, in consultation with experts in child development and with classroom teachers, an assessment to be used when hiring or evaluating any classroom teacher in a center-based Head Start program. Such assessment shall measure whether such teacher has mastered the functions described in section 648A(a)(1).

(42 U.S.C. 9837)

SEC. 642A. HEAD START TRANSITION.

Each Head Start agency shall take steps to coordinate with the local educational agency serving the community involved and with schools in which children participating in a Head Start program

operated by such agency will enroll following such program, including—

(1) developing and implementing a systematic procedure for transferring, with parental consent, Head Start program records for each participating child to the school in which such child will enroll;

(2) establishing channels of communication between Head Start staff and their counterparts in the schools (including teachers, social workers, and health staff) to facilitate coordination of programs;

(3) conducting meetings involving parents, kindergarten or elementary school teachers, and Head Start program teachers to discuss the educational, developmental, and other needs of individual children;

(4) organizing and participating in joint transition-related training of school staff and Head Start staff;

(5) developing and implementing a family outreach and support program in cooperation with entities carrying out parental involvement efforts under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

(6) assisting families, administrators, and teachers in enhancing educational and developmental continuity between Head Start services and elementary school classes; and

(7) linking the services provided in such Head Start program with the education services provided by such local educational agency.

(42 U.S.C. 9837a)

SUBMISSION OF PLANS TO GOVERNORS

SEC. 643. In carrying out the provisions of this subchapter, no contract, agreement, grant, or other assistance shall be made for the purpose of carrying out a Head Start program within a State unless a plan setting forth such proposed contract, agreement, grant, or other assistance has been submitted to the chief executive officer of the State, and such plan has not been disapproved by such officer within 45 days of such submission, or, if disapproved (for reasons other than failure of the program to comply with State health, safety, and child care laws, including regulations applicable to comparable child care programs in the State), has been reconsidered by the Secretary and found by the Secretary to be fully consistent with the provisions and in furtherance of the purposes of this subchapter, as evidenced by a written statement of the Secretary's findings that is transmitted to such officer. Funds to cover the costs of the proposed contract, agreement, grant, or other assistance shall be obligated from the appropriation which is current at the time the plan is submitted to such officer. This section shall not, however, apply to contracts, agreements, grant, loans, or other assistance to any institution of higher education in existence on the date of the enactment of this Act.

(42 U.S.C. 9838)

ADMINISTRATIVE REQUIREMENTS AND STANDARDS

SEC. 644. (a) Each Head Start agency shall observe standards of organization, management, and administration which will as-

sure, so far as reasonably possible, that all program activities are conducted in a manner consistent with the purposes of this subchapter and the objective of providing assistance effectively, efficiently, and free of any taint of partisan political bias or personal or family favoritism. Each such agency shall establish or adopt rules to carry out this section, which shall include rules to assure full staff accountability in matters governed by law, regulations, or agency policy. Each agency shall also provide for reasonable public access to information, including public hearings at the request of appropriate community groups and reasonable public access to books and records of the agency or other agencies engaged in program activities or operations involving the use of authority or funds for which it is responsible. Each such agency shall adopt for itself and other agencies using funds or exercising authority for which it is responsible, rules designed to (1) establish specific standards governing salaries, salary increases, travel and per diem allowances, and other employee benefits; (2) assure that only persons capable of discharging their duties with competence and integrity are employed and that employees are promoted or advanced under impartial procedures calculated to improve agency performance and effectiveness; (3) guard against personal or financial conflicts of interest; (4) define employee duties in an appropriate manner which will in any case preclude employees from participating, in connection with the performance of their duties, in any form of picketing, protest, or other direct action which is in violation of law.

(b) Except as provided in subsection (f), no financial assistance shall be extended under this subchapter in any case in which the Secretary determines that the costs of developing and administering a program assisted under this subchapter exceed 15 percent of the total costs, including the required non-Federal contributions to such costs, of such program. The Secretary shall establish by regulation, criteria for determining (1) the costs of developing and administering such program; and (2) the total costs of such program. In any case in which the Secretary determines that the cost of administering such program does not exceed 15 percent of such total costs but is, in the judgment of the Secretary, excessive, the Secretary shall forthwith require the recipient of such financial assistance to take such steps prescribed by the Secretary as will eliminate such excessive administrative cost, including the sharing by one or more Head Start agencies of a common director and other administrative personnel. The Secretary may waive the limitation prescribed by this subsection for specific periods of time not to exceed 12 months whenever the Secretary determines that such a waiver is necessary in order to carry out the purposes of this subchapter.

(c) The Secretary shall prescribe rules or regulations to supplement subsections (a) and (f), which shall be binding on all agencies carrying on Head Start program activities with financial assistance under this subchapter. The Secretary may, where appropriate, establish special or simplified requirements for smaller agencies or agencies operating in rural areas. Policies and procedures shall be established to ensure that indirect costs attributable to the common or joint use of facilities and services by programs assisted under this subchapter and other programs shall be fairly allocated

among the various programs which utilize such facilities and services.

(d) At least 30 days prior to their effective date, all rules, regulations, and application forms shall be published in the Federal Register and shall be sent to each grantee with the notification that each such grantee has the right to submit comments pertaining thereto to the Secretary prior to the final adoption thereof.

(e) Funds appropriated to carry out this subchapter shall not be used to assist, promote, or deter union organizing.

(f)(1) The Secretary shall establish uniform procedures for Head Start agencies to request approval to purchase facilities, or to request approval of the purchase (after December 31, 1986) of facilities, to be used to carry out Head Start programs. The Secretary shall suspend any proceedings pending against any Head Start agency to claim costs incurred in purchasing such facilities until the agency has been afforded an opportunity to apply for approval of the purchase and the Secretary has determined whether the purchase will be approved. The Secretary shall not be required to repay claims previously satisfied by Head Start agencies for costs incurred in the purchase of such facilities.

(2) Financial assistance provided under this subchapter may not be used by a Head Start agency to purchase a facility (including paying the cost of amortizing the principal, and paying interest on, loans) to be used to carry out a Head Start program unless the Secretary approves a request that is submitted by such agency and contains—

(A) a description of the site of the facility proposed to be purchased or that was previously purchased;

(B) the plans and specifications of such facility;

(C) information demonstrating that—

(i) the proposed purchase will result, or the previous purchase has resulted, in savings when compared to the costs that would be incurred to acquire the use of an alternative facility to carry out such program; or

(ii) the lack of alternative facilities will prevent, or would have prevented, the operation of such program;

(D) in the case of a request regarding a previously purchased facility, information demonstrating that the facility will be used principally as a Head Start center, or a direct support facility for a Head Start program; and

(E) such other information and assurances as the Secretary may require.

(3) Upon a determination by the Secretary that suitable facilities are not otherwise available to Indian tribes to carry out Head Start programs, and that the lack of suitable facilities will inhibit the operation of such programs, the Secretary, in the discretion of the Secretary, may authorize the use of financial assistance, from the amount reserved under section 640(a)(2)(A), to make payments for the purchase of facilities owned by such tribes. The amount of such a payment for such a facility shall not exceed the fair market value of the facility.

(g)(1) Upon a determination by the Secretary that suitable facilities (including public school facilities) are not otherwise available to Indian tribes, rural communities, and other low-income communities to carry out Head Start programs, that the lack of

suitable facilities will inhibit the operation of such programs, and that construction of such facilities is more cost effective than purchase of available facilities or renovation, the Secretary, in the discretion of the Secretary, may authorize the use of financial assistance under this subchapter to make payments for capital expenditures related to facilities that will be used to carry out such programs. The Secretary shall establish uniform procedures for Head Start agencies to request approval for such payments, and shall promote, to the extent practicable, the collocation of Head Start programs with other programs serving low-income children and families.

(2) Such payments may be used for capital expenditures (including paying the cost of amortizing the principal, and paying interest on, loans) such as expenditures for—

(A) construction of facilities that are not in existence on the date of the determination;

(B) major renovation of facilities in existence on such date; and

(C) purchase of vehicles used for programs conducted at the Head Start facilities.

(3) All laborers and mechanics employed by contractors or subcontractors in the construction or renovation of facilities to be used to carry out Head Start programs shall be paid wages at not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931, as amended (40 U.S.C. 276a et seq., commonly known as the "Davis-Bacon Act").

(h) In all personnel actions of the American Indian Programs Branch of the Head Start Bureau of the Administration for Children and Families, the Secretary shall give the same preference to individuals who are members of an Indian tribe as the Secretary gives to a disabled veteran, as defined in section 2108(3)(C) of title 5, United States Code. The Secretary shall take such additional actions as may be necessary to promote recruitment of such individuals for employment in the Administration.

(42 U.S.C. 9839)

PARTICIPATION IN HEAD START PROGRAMS

SEC. 645. (a)(1) The Secretary shall by regulation prescribe eligibility for the participation of persons in Head Start programs assisted under this subchapter. Except as provided in paragraph (2), such criteria may provide—

(A) that children from low-income families shall be eligible for participation in programs assisted under this subchapter if their families' incomes are below the poverty line, or if their families are eligible or, in the absence of child care, would potentially be eligible for public assistance; and

(B) pursuant to such regulations as the Secretary shall prescribe, that—

(i) programs assisted under this subchapter may include, to a reasonable extent, participation of children in the area served who would benefit from such programs but whose families do not meet the low-income criteria prescribed pursuant to subparagraph (A); and

(ii) a child who has been determined to meet the low-income criteria and who is participating in a Head Start program in a program year shall be considered to continue to meet the low-income criteria through the end of the succeeding program year.

In determining, for purposes of this paragraph, whether a child who has applied for enrollment in a Head Start program meets the low-income criteria, an entity may consider evidence of family income during the 12 months preceding the month in which the application is submitted, or during the calendar year preceding the calendar year in which the application is submitted, whichever more accurately reflects the needs of the family at the time of application.

(2) Whenever a Head Start program is operated in a community with a population of 1,000 or less individuals and—

(A) there is no other preschool program in the community;

(B) the community is located in a medically underserved area, as designated by the Secretary pursuant to section 330(b)(3)[1] of the Public Health Service Act and is located in a health professional shortage area, as designated by the Secretary pursuant to section 332(a)(1) of such Act;

(C) the community is in a location which, by reason of remoteness, does not permit reasonable access to the types of services described in clauses (A) and (B); and

(D) not less than 50 percent of the families to be served in the community are eligible under the eligibility criteria established by the Secretary under paragraph (1);

the Head Start program in each such locality shall establish the criteria for eligibility, except that no child residing in such community whose family is eligible under such eligibility criteria shall, by virtue of such project's eligibility criteria, be denied an opportunity to participate in such program. During the period beginning on the date of the enactment of the Human Services Reauthorization Act and ending on October 1, 1994, and unless specifically authorized in any statute of the United States enacted after such date of enactment, the Secretary may not make any change in the method, as in effect on April 25, 1984, of calculating income used to prescribe eligibility for the participation of persons in the Head Start programs assisted under this subchapter if such change would result in any reduction in, or exclusion from, participation of persons in any of such programs.

(b) The Secretary shall not prescribe any fee schedule or otherwise provide for the charging of any fees for participation in Head Start programs, unless such fees are authorized by legislation hereafter enacted. Nothing in this subsection shall be construed to prevent the families of children who participate in Head Start programs and who are willing and able to pay the full cost of such participation from doing so. A Head Start agency that provides a Head Start program with full-working-day services in collaboration with other agencies or entities may collect a family copayment to support extended day services if a copayment is required in conjunction with the collaborative. The copayment charged to families re-

[1] So in law. The reference made to "section 330(b)(3)" in section 645(a)(2)(B) probably should be to "section 330A(b)(3)". Section 3 of Public Law 104–299 (110 Stat. 3642) redesignated section 330 of the Public Health Service Act as section 330A.

ceiving services through the Head Start program shall not exceed the copayment charged to families with similar incomes and circumstances who are receiving the services through participation in a program carried out by another agency or entity.

(c) Each Head Start program operated in a community shall be permitted to provide more than 1 year of Head Start services to eligible children (age 3 to compulsory school attendance) in the State. Each Head Start program operated in a community shall be permitted to recruit and accept applications for enrollment of children throughout the year.

(d)(1) An Indian tribe that—

(A) operates a Head Start program;

(B) enrolls as participants in the program all children in the community served by the tribe (including a community that is an off-reservation area, designated by an appropriate tribal government, in consultation with the Secretary) from families that meet the low-income criteria prescribed under subsection (a)(1)(A); and

(C) has the resources to enroll additional children in the community who do not meet the low-income criteria;

may enroll such additional children in a Head Start program, in accordance with this subsection, if the program predominantly serves children who meet the low-income criteria.

(2) The Indian tribe shall enroll the children in the Head Start program in accordance with such requirements as the Secretary may specify by regulation promulgated after consultation with Indian tribes.

(3) In providing services through a Head Start program to such children, the Indian tribe may not use funds that the Secretary has determined, in accordance with section 640(g)(3), are to be used for expanding Head Start programs under this subchapter.

(42 U.S.C. 9840)

SEC. 645A. EARLY HEAD START PROGRAMS FOR FAMILIES WITH INFANTS AND TODDLERS.

(a) IN GENERAL.—The Secretary shall make grants, in accordance with the provisions of this section for programs providing family-centered services for low-income families with very young children designed to promote the development of the children, and to enable their parents to fulfill their roles as parents and to move toward self-sufficiency.

(b) SCOPE AND DESIGN OF PROGRAMS.—In carrying out a program described in subsection (a), an entity receiving assistance under this section shall—

(1) provide, either directly or through referral, early, continuous, intensive, and comprehensive child development and family support services that will enhance the physical, social, emotional, and intellectual development of participating children;

(2) ensure that the level of services provided to families responds to their needs and circumstances;

(3) promote positive parent-child interactions;

(4) provide services to parents to support their role as parents and to help the families move toward self-sufficiency (including educational and employment services as appropriate);

(5) coordinate services with services provided by programs in the State and programs in the community (including programs for infants and toddlers with disabilities) to ensure a comprehensive array of services (such as health and mental health services);

(6) ensure formal linkages with local Head Start programs in order to provide for continuity of services for children and families;

(7) in the case of a Head Start agency that operates a program and that also provides Head Start services through the age of mandatory school attendance, ensure that children and families participating in the program receive such services through such age;

(8) ensure formal linkages with the agencies and entities described in section 644(b) of the Individuals with Disabilities Education Act (20 U.S.C. 1444(b)) and providers of early intervention services for infants and toddlers with disabilities under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.); and

(9) meet such other requirements concerning design and operation of the program described in subsection (a) as the Secretary may establish.

(c) PERSONS ELIGIBLE TO PARTICIPATE.—Persons who may participate in programs described in subsection (a) include—

(1) pregnant women; and

(2) families with children under age 3;

who meet the income criteria specified for families in section 645(a)(1).

(d) ELIGIBLE SERVICE PROVIDERS.—To be eligible to receive assistance under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Entities that may apply to carry out activities under this section include—

(1) entities operating Head Start programs under this subchapter; and

(2) other public entities, and nonprofit or for-profit private entities, capable of providing child and family services that meet the standards for participation in programs under this subchapter and meet such other appropriate requirements relating to the activities under this section as the Secretary may establish.

(e) SELECTION OF GRANT RECIPIENTS.—From the portion specified in section 640(a)(6), the Secretary shall award grants under this subsection on a competitive basis to applicants meeting the criteria specified in subsection (d) (giving priority to entities with a record of providing early, continuous, and comprehensive childhood development and family services).

(f) DISTRIBUTION.—In awarding grants to eligible applicants under this section, the Secretary shall—

(1) ensure an equitable national geographic distribution of the grants; and

(2) award grants to applicants proposing to serve communities in rural areas and to applicants proposing to serve communities in urban areas.

(g) MONITORING, TRAINING, TECHNICAL ASSISTANCE, AND EVALUATION.—

(1) REQUIREMENT.—In order to ensure the successful operation of programs assisted under this section, the Secretary shall use funds from the portion specified in section 640(a)(6) to monitor the operation of such programs, evaluate their effectiveness, and provide training and technical assistance tailored to the particular needs of such programs.

(2) TRAINING AND TECHNICAL ASSISTANCE ACCOUNT.—

(A) IN GENERAL.—Of the amount made available to carry out this section for any fiscal year, not less than 5 percent and not more than 10 percent shall be reserved to fund a training and technical assistance account.

(B) ACTIVITIES.—Funds in the account may be used by the Secretary for purposes including—

(i) making grants to, and entering into contracts with, organizations with specialized expertise relating to infants, toddlers, and families and the capacity needed to provide direction and support to a national training and technical assistance system, in order to provide such direction and support;

(ii) providing ongoing training and technical assistance for regional and program staff charged with monitoring and overseeing the administration of the program carried out under this section;

(iii) providing ongoing training and technical assistance for existing recipients (as of the date of such training or assistance) of grants under subsection (a) and support and program planning and implementation assistance for new recipients of such grants; and

(iv) providing professional development and personnel enhancement activities, including the provision of funds to recipients of grants under subsection (a) for the recruitment and retention of qualified staff with an appropriate level of education and experience.

(42 U.S.C. 9840a)

APPEALS, NOTICE, AND HEARING

SEC. 646. (a) The Secretary shall prescribe procedures to assure that—

(1) special notice of and an opportunity for a timely and expeditious appeal to the Secretary will be provided for an agency or organization which desires to serve as a delegate agency under this subchapter and whose application to the Head Start agency has been wholly or substantially rejected or has not been acted upon within a period of time deemed reasonable by the Secretary, in accordance with regulations which the Secretary shall prescribe;

(2) financial assistance under this subchapter shall not be suspended, except in emergency situations, unless the recipient agency has been given reasonable notice and opportunity to show cause why such action should not be taken;

(3) financial assistance under this subchapter shall not be terminated or reduced, an application for refunding shall not

be denied, and a suspension of financial assistance shall not be continued for longer than 30 days, unless the recipient has been afforded reasonable notice and opportunity for a full and fair hearing; and

(4) the Secretary shall develop and publish procedures (including mediation procedures) to be used in order to—

(A) resolve in a timely manner conflicts potentially leading to adverse action between—

(i) recipients of financial assistance under this subchapter; and

(ii) delegate agencies or Head Start Parent Policy Councils; and

(B) avoid the need for an administrative hearing on an adverse action.

(b) In prescribing procedures for the mediation described in subsection (a)(4), the Secretary shall specify—

(1) the date by which a Head Start agency engaged in a conflict described in subsection (a)(4) will notify the appropriate regional office of the Department of the conflict; and

(2) a reasonable period for the mediation.

(c) The Secretary shall also specify—

(1) a timeline for an administrative hearing, if necessary, on an adverse action; and

(2) a timeline by which the person conducting the administrative hearing shall issue a decision based on the hearing.

(d) In any case in which a termination, reduction, or suspension of financial assistance under this subchapter is upheld in an administrative hearing under this section, such termination, reduction, or suspension shall not be stayed pending any judicial appeal of such administrative decision.

(e)(1) The Secretary shall by regulation specify a process by which an Indian tribe may identify and establish an alternative agency, and request that the alternative agency be designated under section 641 as the Head Start agency providing services to the tribe, if—

(A) the Secretary terminates financial assistance under section 646 to the only agency that was receiving financial assistance to provide Head Start services to the Indian tribe; and

(B) the tribe would otherwise be precluded from providing such services to the members of the tribe.

(2) The regulation required by this subsection shall prohibit such designation of an alternative agency that includes an employee who—

(A) served on the administrative staff or program staff of the agency described in paragraph (1)(A); and

(B) was responsible for a deficiency that—

(i) relates to the performance standards or financial management standards described in section 641A(a)(1); and

(ii) was the basis for the termination of financial assistance described in paragraph (1)(A);

as determined by the Secretary after providing the notice and opportunity described in subsection (a)(3).

(42 U.S.C. 9841)

RECORDS AND AUDITS

SEC. 647. (a) Each recipient of financial assistance under this subchapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such financial assistance, the total cost of the project or undertaking in connection with which such financial assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this subchapter.

(42 U.S.C. 9842)

TECHNICAL ASSISTANCE AND TRAINING

SEC. 648. (a) The Secretary shall provide, directly or through grants or other arrangements (1) technical assistance to communities in developing, conducting, and administering programs under this subchapter; and (2) training for specialized or other personnel needed in connection with Head Start programs, in accordance with the process, and the provisions for allocating resources, set forth in subsections (b) and (c).

(b) The process for determining the technical assistance and training activities to be carried out under this section shall—

(1) ensure that the needs of local Head Start agencies and programs relating to improving program quality and to program expansion are addressed to the maximum extent feasible;

(2) incorporate mechanisms to ensure responsiveness to local needs, including an ongoing procedure for obtaining input from the individuals and agencies carrying out Head Start programs; and

(3) ensure the provision of technical assistance to assist Head Start agencies, entities carrying out other child care and early childhood programs, communities, and States in collaborative efforts to provide quality full-working-day, full calendar year services, including technical assistance related to identifying and assisting in resolving barriers to collaboration.

(c) In allocating resources for technical assistance and training under this section, the Secretary shall—

(1) give priority consideration to—

(A) activities to correct program and management deficiencies identified through reviews carried out pursuant to section 641A(c) (including the provision of assistance to local programs in the development of quality improvement plans under section 641A(d)(2)); and

(B) assisting Head Start agencies in—

(i) ensuring the school readiness of children; and

(ii) meeting the educational performance measures described in section 641A(b)(4);

(2) supplement amounts provided under section 640(a)(3)(C)(ii) in order to address the training and career development needs of classroom staff (including instruction for

providing services to children with disabilities) and nonclassroom staff, including home visitors and other staff working directly with families, including training relating to increasing parent involvement and services designed to increase family literacy and improve parenting skills;

(3) assist Head Start agencies in the development of collaborative initiatives with States and other entities within the States, to foster effective early childhood professional development systems;

(4) provide technical assistance and training, either directly or through a grant, contract, or cooperative agreement with an entity that has experience in the development and operation of successful family literacy services programs, for the purpose of—

(A) assisting Head Start agencies providing family literacy services, in order to improve the quality of such family literacy services; and

(B) enabling those Head Start agencies that demonstrate effective provision of family literacy services, based on improved outcomes for children and their parents, to provide technical assistance and training to other Head Start agencies and to service providers that work in collaboration with such agencies to provide family literacy services;

(5) assist Head Start agencies and programs in conducting and participating in communitywide strategic planning and needs assessment;

(6) assist Head Start agencies and programs in developing and implementing full-working-day and full-calendar-year programs where community need is clearly identified and making the transition to such programs, with particular attention to involving parents and programming for children throughout the day, and assist the agencies and programs in expediting the sharing of information about innovative models for providing full-working-day, full calendar year services for children;

(7) assist Head Start agencies in better serving the needs of families with very young children;

(8) assist Head Start agencies and programs in the development of sound management practices, including financial management procedures;

(9) assist in efforts to secure and maintain adequate facilities for Head Start programs;

(10) assist Head Start agencies in developing innovative program models, including mobile and home-based programs; and

(11) provide support for Head Start agencies (including policy councils and policy committees, as defined in regulation) that meet the standards described in section 641A(a) but that have, as documented by the Secretary through reviews conducted pursuant to section 641A(c), significant programmatic, quality, and fiscal issues to address.

(d) The Secretary may provide, either directly or through grants to public or private nonprofit entities, training for Head Start personnel in the use of the performing and visual arts and

interactive programs using electronic media to enhance the learning experience of Head Start children. Special consideration shall be given to entities that have demonstrated effectiveness in educational programming for preschool children that includes components for parental involvement, care provider training, and developmentally appropriate related activities.

(e) The Secretary shall provide, either directly or through grants or other arrangements, funds from programs authorized under this subchapter to support an organization to administer a centralized child development and national assessment program leading to recognized credentials for personnel working in early childhood development and child care programs, training for personnel providing services to non-English language background children (including services to promote the acquisition of the English language), training for personnel in helping children cope with community violence, and resource access projects for personnel working with disabled children.

(42 U.S.C. 9843)

SEC. 648A. STAFF QUALIFICATIONS AND DEVELOPMENT.

(a) CLASSROOM TEACHERS.—

(1) PROFESSIONAL REQUIREMENTS.—The Secretary shall ensure that each Head Start classroom in a center-based program is assigned one teacher who has demonstrated competency to perform functions that include—

(A) planning and implementing learning experiences that advance the intellectual and physical development of children, including improving the readiness of children for school by developing their literacy and phonemic, print, and numeracy awareness, their understanding and use of language, their understanding and use of increasingly complex and varied vocabulary, their appreciation of books, and their problem solving abilities;

(B) establishing and maintaining a safe, healthy learning environment;

(C) supporting the social and emotional development of children; and

(D) encouraging the involvement of the families of the children in a Head Start program and supporting the development of relationships between children and their families.

(2) DEGREE REQUIREMENTS.—

(A) IN GENERAL.—The Secretary shall ensure that not later than September 30, 2003, at least 50 percent of all Head Start teachers nationwide in center-based programs have—

(i) an associate, baccalaureate, or advanced degree in early childhood education; or

(ii) an associate, baccalaureate, or advanced degree in a field related to early childhood education, with experience in teaching preschool children.

(B) PROGRESS.—The Secretary shall require Head Start agencies to demonstrate continuing progress each year to reach the result described in subparagraph (A).

(3) ALTERNATIVE CREDENTIALING REQUIREMENTS.—The Secretary shall ensure that, for center-based programs, each Head Start classroom that does not have a teacher that meets the requirements of clause (i) or (ii) of paragraph (2)(A) is assigned one teacher who has—

(A) a child development associate credential that is appropriate to the age of the children being served in center-based programs;

(B) a State-awarded certificate for preschool teachers that meets or exceeds the requirements for a child development associate credential; or

(C) a degree in a field related to early childhood education with experience in teaching preschool children and a State-awarded certificate to teach in a preschool program.

(4) WAIVER.—

(A) IN GENERAL.—On request, the Secretary shall grant a 180-day waiver of the requirements of paragraph (3), for a Head Start agency that can demonstrate that the agency has unsuccessfully attempted to recruit an individual who has a credential, certificate, or degree described in paragraph (3), with respect to an individual who—

(i) is enrolled in a program that grants any such credential, certificate, or degree; and

(ii) will receive such credential, certificate, or degree under the terms of such program not later than 180 days after beginning employment as a teacher with such agency.

(B) LIMITATION.—The Secretary may not grant more than one such waiver with respect to such individual.

(b) MENTOR TEACHERS.—

(1) DEFINITION; FUNCTION.—For purposes of this subsection, the term "mentor teacher" means an individual responsible for observing and assessing the classroom activities of a Head Start program and providing on-the-job guidance and training to the Head Start program staff and volunteers, in order to improve the qualifications and training of classroom staff, to maintain high quality education services, and to promote career development, in Head Start programs.

(2) REQUIREMENT.—In order to assist Head Start agencies in establishing positions for mentor teachers, the Secretary shall—

(A) provide technical assistance and training to enable Head Start agencies to establish such positions;

(B) give priority consideration, in providing assistance pursuant to subparagraph (A), to Head Start programs that have substantial numbers of new classroom staff or that are experiencing difficulty in meeting applicable education standards;

(C) encourage Head Start programs to give priority consideration for such positions to Head Start teachers at the appropriate level of career advancement in such programs; and

(D) promote the development of model curricula, designed to ensure the attainment of appropriate competencies of mentor teachers in Head Start programs.

(c) FAMILY SERVICE WORKERS.—In order to improve the quality and effectiveness of staff providing in-home and other services (including needs assessment, development of service plans, family advocacy, and coordination of service delivery) to families of children participating in Head Start programs, the Secretary, in coordination with concerned public and private agencies and organizations examining the issues of standards and training for family service workers, shall—

(1) review and, as necessary, revise or develop new qualification standards for Head Start staff providing such services;

(2) promote the development of model curricula (on subjects including parenting training and family literacy) designed to ensure the attainment of appropriate competencies by individuals working or planning to work in the field of early childhood and family services; and

(3) promote the establishment of a credential that indicates attainment of the competencies and that is accepted nationwide.

(d) HEAD START FELLOWSHIPS.—

(1) AUTHORITY.—The Secretary may establish a program of fellowships, to be known as "Head Start Fellowships", in accordance with this subsection. The Secretary may award the fellowships to individuals, to be known as "Head Start Fellows", who are staff in local Head Start programs or other individuals working in the field of child development and family services.

(2) PURPOSE.—The fellowship program established under this subsection shall be designed to enhance the ability of Head Start Fellows to make significant contributions to programs authorized under this subchapter, by providing opportunities to expand their knowledge and experience through exposure to activities, issues, resources, and new approaches, in the field of child development and family services.

(3) ASSIGNMENTS OF FELLOWS.—

(A) PLACEMENT SITES.—Fellowship positions under the fellowship program may be located (subject to subparagraphs (B) and (C))—

(i) in agencies of the Department of Health and Human Services administering programs authorized under this subchapter (in national or regional offices of such agencies);

(ii) in local Head Start agencies and programs;

(iii) in institutions of higher education;

(iv) in public or private entities and organizations concerned with services to children and families; and

(v) in other appropriate settings.

(B) LIMITATION FOR FELLOWS OTHER THAN HEAD START EMPLOYEES.—A Head Start Fellow who is not an employee of a local Head Start agency or program may be placed only in a fellowship position located in an agency or program specified in clause (i) or (ii) of subparagraph (A).

(C) NO PLACEMENT IN LOBBYING ORGANIZATIONS.—Head Start Fellowship positions may not be located in any agency whose primary purpose, or one of whose major purposes, is to influence Federal, State, or local legislation.

(4) SELECTION OF FELLOWS.—Head Start Fellowships shall be awarded on a competitive basis to individuals (other than Federal employees) selected from among applicants who are working, on the date of application, in local Head Start programs or otherwise working in the field of child development and children and family services.

(5) DURATION.—Head Start Fellowships shall be for terms of 1 year, and may be renewed for a term of 1 additional year.

(6) AUTHORIZED EXPENDITURES.—From amounts appropriated under this subchapter and allotted under section 640(a)(2)(D), the Secretary is authorized to make expenditures of not to exceed $1,000,000 for any fiscal year, for stipends and other reasonable expenses of the fellowship program.

(7) STATUS OF FELLOWS.—Except as otherwise provided in this paragraph, Head Start Fellows shall not be considered to be employees or otherwise in the service or employment of the Federal Government. Head Start Fellows shall be considered to be employees for purposes of compensation for injuries under chapter 81 of title 5, United States Code. Head Start Fellows assigned to positions located in agencies specified in paragraph (3)(A)(i) shall be considered employees in the executive branch of the Federal Government for the purposes of chapter 11 of title 18, United States Code, and for purposes of any administrative standards of conduct applicable to the employees of the agency to which they are assigned.

(8) REGULATIONS.—The Secretary shall promulgate regulations to carry out this subsection.

(e) MODEL STAFFING PLANS.—Not later than 1 year after the date of enactment of this subsection, the Secretary, in consultation with appropriate public agencies, private agencies, and organizations and with individuals with expertise in the field of children and family services, shall develop model staffing plans to provide guidance to local Head Start agencies and programs on the numbers, types, responsibilities, and qualifications of staff required to operate a Head Start program.

(42 U.S.C. 9843a)

SEC. 649. RESEARCH, DEMONSTRATIONS, AND EVALUATION.

(a) IN GENERAL.—

(1) REQUIREMENT; GENERAL PURPOSES.—The Secretary shall carry out a continuing program of research, demonstration, and evaluation activities, in order to—

(A) foster continuous improvement in the quality of the Head Start programs under this subchapter and in their effectiveness in enabling participating children and their families to succeed in school and otherwise; and

(B) use the Head Start programs to develop, test, and disseminate new ideas and approaches for addressing the needs of low-income preschool children (including children with disabilities) and their families and communities (including demonstrations of innovative noncenter-based pro-

gram models such as home-based and mobile programs), and otherwise to further the purposes of this subchapter.

(2) PLAN.—The Secretary shall develop, and periodically update, a plan governing the research, demonstration, and evaluation activities under this section.

(b) CONDUCT OF RESEARCH, DEMONSTRATION, AND EVALUATION ACTIVITIES.—The Secretary, in order to conduct research, demonstration, and evaluation activities under this section—

(1) may carry out such activities directly, or through grants to, or contracts or cooperative agreements with, public or private entities;

(2) shall, to the extent appropriate, undertake such activities in collaboration with other Federal agencies, and with non-Federal agencies, conducting similar activities;

(3) shall ensure that evaluation of activities in a specific program or project is conducted by persons not directly involved in the operation of such program or project;

(4) may require Head Start agencies to provide for independent evaluations;

(5) may approve, in appropriate cases, community-based cooperative research and evaluation efforts to enable Head Start programs to collaborate with qualified researchers not directly involved in program administration or operation; and

(6) may collaborate with organizations with expertise in inclusive educational strategies for preschoolers with disabilities.

(c) CONSULTATION AND COLLABORATION.—In carrying out activities under this section, the Secretary shall—

(1) consult with—

(A) individuals from relevant academic disciplines;

(B) individuals who are involved in the operation of Head Start programs and individuals who are involved in the operation of other child and family service programs; and

(C) individuals from other Federal agencies, and individuals from organizations, involved with children and families, ensuring that the individuals described in this subparagraph reflect the multicultural nature of the children and families served by the Head Start programs and the multidisciplinary nature of the Head Start programs;

(2) whenever feasible and appropriate, obtain the views of persons participating in and served by programs and projects assisted under this subchapter with respect to activities under this section; and

(3) establish, to the extent appropriate, working relationships with the faculties of institutions of higher education, as defined in section 101 of the Higher Education Act of 1965, located in the area in which any evaluation under this section is being conducted, unless there is no such institution of higher education willing and able to participate in such evaluation.

(d) SPECIFIC OBJECTIVES.—The research, demonstration, and evaluation activities under this subchapter shall include components designed to—

(1) permit ongoing assessment of the quality and effectiveness of the programs under this subchapter;

(2) establish evaluation methods that measure the effectiveness and impact of family literacy services program models, including models for the integration of family literacy services with Head Start services;

(3) contribute to developing knowledge concerning factors associated with the quality and effectiveness of Head Start programs and in identifying ways in which services provided under this subchapter may be improved;

(4) assist in developing knowledge concerning the factors that promote or inhibit healthy development and effective functioning of children and their families both during and following participation in a Head Start program;

(5) permit comparisons of children and families participating in Head Start programs with children and families receiving other child care, early childhood education, or child development services and with other appropriate control groups;

(6) contribute to understanding the characteristics and needs of population groups eligible for services provided under this subchapter and the impact of such services on the individuals served and the communities in which such services are provided;

(7) provide for disseminating and promoting the use of the findings from such research, demonstration, and evaluation activities;

(8) promote exploration of areas in which knowledge is insufficient, and that will otherwise contribute to fulfilling the purposes of this subchapter;

(9) study the experiences of small, medium, and large States with Head Start programs in order to permit comparisons of children participating in the programs with eligible children who did not participate in the programs, which study—

(A) may include the use of a data set that existed prior to the initiation of the study; and

(B) shall compare the educational achievement, social adaptation, and health status of the participating children and the eligible nonparticipating children; and

(10) provide for—

(A) using the Survey of Income and Program Participation to conduct an analysis of the different income levels of Head Start participants compared to comparable persons who did not attend Head Start programs;

(B) using the National Longitudinal Survey of Youth, which began gathering data in 1988 on children who attended Head Start programs, to examine the wide range of outcomes measured within the Survey, including outcomes related to cognitive, socio-emotional, behavioral, and academic development;

(C) using the Survey of Program Dynamics, the new longitudinal survey required by section 414 of the Social Security Act (42 U.S.C. 614), to begin annual reporting, through the duration of the Survey, on Head Start program attendees' academic readiness performance and improvements;

(D) ensuring that the Survey of Program Dynamics is linked with the National Longitudinal Survey of Youth at least once by the use of a common performance test, to be determined by the expert panel, for the greater national usefulness of the National Longitudinal Survey of Youth database; and

(E) disseminating the results of the analysis, examination, reporting, and linkage described in subparagraphs (A) through (D) to persons conducting other studies under this subchapter.

The Secretary shall ensure that an appropriate entity carries out a study described in paragraph (9), and prepares and submits to the appropriate committees of Congress a report containing the results of the study, not later than September 30, 2002.

(e) LONGITUDINAL STUDIES.—In developing priorities for research, demonstration, and evaluation activities under this section, the Secretary shall give special consideration to longitudinal studies that—

(1) examine the developmental progress of children and their families both during and following participation in a Head Start program, including the examination of factors that contribute to or detract from such progress;

(2) examine factors related to improving the quality of the Head Start programs and the preparation the programs provide for children and their families to function effectively in schools and other settings in the years following participation in such a program; and

(3) as appropriate, permit comparison of children and families participating in Head Start programs with children and families receiving other child care, early childhood education, or child development services, and with other appropriate control groups.

(f) OWNERSHIP OF RESULTS.—The Secretary shall take necessary steps to ensure that all studies, reports, proposals, and data produced or developed with Federal funds under this subchapter shall become the property of the United States.

(g) NATIONAL HEAD START IMPACT RESEARCH.—

(1) EXPERT PANEL.—

(A) IN GENERAL.—The Secretary shall appoint an independent panel consisting of experts in program evaluation and research, education, and early childhood programs—

(i) to review, and make recommendations on, the design and plan for the research (whether conducted as a single assessment or as a series of assessments) described in paragraph (2), within 1 year after the date of enactment of the Coats Human Services Reauthorization Act of 1998;

(ii) to maintain and advise the Secretary regarding the progress of the research; and

(iii) to comment, if the panel so desires, on the interim and final research reports submitted under paragraph (7).

(B) TRAVEL EXPENSES.—The members of the panel shall not receive compensation for the performance of services for the panel, but shall be allowed travel expenses, in-

cluding per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the panel. Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of members of the panel.

(2) GENERAL AUTHORITY.—After reviewing the recommendations of the expert panel, the Secretary shall make a grant to, or enter into a contract or cooperative agreement with, an organization to conduct independent research that provides a national analysis of the impact of Head Start programs. The Secretary shall ensure that the organization shall have expertise in program evaluation, and research, education, and early childhood programs.

(3) DESIGNS AND TECHNIQUES.—The Secretary shall ensure that the research uses rigorous methodological designs and techniques (based on the recommendations of the expert panel), including longitudinal designs, control groups, nationally recognized standardized measures, and random selection and assignment, as appropriate. The Secretary may provide that the research shall be conducted as a single comprehensive assessment or as a group of coordinated assessments designed to provide, when taken together, a national analysis of the impact of Head Start programs.

(4) PROGRAMS.—The Secretary shall ensure that the research focuses primarily on Head Start programs that operate in the 50 States, the Commonwealth of Puerto Rico, or the District of Columbia and that do not specifically target special populations.

(5) ANALYSIS.—The Secretary shall ensure that the organization conducting the research—

(A)(i) determines if, overall, the Head Start programs have impacts consistent with their primary goal of increasing the social competence of children, by increasing the everyday effectiveness of the children in dealing with their present environments and future responsibilities, and increasing their school readiness;

(ii) considers whether the Head Start programs—

(I) enhance the growth and development of children in cognitive, emotional, and physical health areas;

(II) strengthen families as the primary nurturers of their children; and

(III) ensure that children attain school readiness; and

(iii) examines—

(I) the impact of the Head Start programs on increasing access of children to such services as educational, health, and nutritional services, and linking children and families to needed community services; and

(II) how receipt of services described in subclause (I) enriches the lives of children and families participating in Head Start programs;

(B) examines the impact of Head Start programs on participants on the date the participants leave Head Start programs, at the end of kindergarten and at the end of first grade (whether in public or private school), by examining a variety of factors, including educational achievement, referrals for special education or remedial course work, and absenteeism;

(C) makes use of random selection from the population of all Head Start programs described in paragraph (4) in selecting programs for inclusion in the research; and

(D) includes comparisons of individuals who participate in Head Start programs with control groups (including comparison groups) composed of—

(i) individuals who participate in other early childhood programs (such as public or private preschool programs and day care); and

(ii) individuals who do not participate in any other early childhood program.

(6) CONSIDERATION OF SOURCES OF VARIATION.—In designing the research, the Secretary shall, to the extent practicable, consider addressing possible sources of variation in impact of Head Start programs, including variations in impact related to such factors as—

(A) Head Start program operations;

(B) Head Start program quality;

(C) the length of time a child attends a Head Start program;

(D) the age of the child on entering the Head Start program;

(E) the type of organization (such as a local educational agency or a community action agency) providing services for the Head Start program;

(F) the number of hours and days of program operation of the Head Start program (such as whether the program is a full-working-day, full calendar year program, a part-day program, or a part-year program); and

(G) other characteristics and features of the Head Start program (such as geographic location, location in an urban or a rural service area, or participant characteristics), as appropriate.

(7) REPORTS.—

(A) SUBMISSION OF INTERIM REPORTS.—The organization shall prepare and submit to the Secretary two interim reports on the research. The first interim report shall describe the design of the research, and the rationale for the design, including a description of how potential sources of variation in impact of Head Start programs have been considered in designing the research. The second interim report shall describe the status of the research and preliminary findings of the research, as appropriate.

(B) SUBMISSION OF FINAL REPORT.—The organization shall prepare and submit to the Secretary a final report containing the findings of the research.

(C) TRANSMITTAL OF REPORTS TO CONGRESS.—

(i) IN GENERAL.—The Secretary shall transmit, to the committees described in clause (ii), the first interim report by September 30, 1999, the second interim report by September 30, 2001, and the final report by September 30, 2003.

(ii) COMMITTEES.—The committees referred to in clause (i) are the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(8) DEFINITION.—In this subsection, the term "impact", used with respect to a Head Start program, means a difference in an outcome for a participant in the program that would not have occurred without the participation in the program.

(h) QUALITY IMPROVEMENT STUDY.—

(1) STUDY.—The Secretary shall conduct a study regarding the use and effects of use of the quality improvement funds made available under section 640(a)(3) since fiscal year 1991.

(2) REPORT.—The Secretary shall prepare and submit to Congress not later than September 2000 a report containing the results of the study, including information on—

(A) the types of activities funded with the quality improvement funds;

(B) the extent to which the use of the quality improvement funds has accomplished the goals of section 640(a)(3)(B);

(C) the effect of use of the quality improvement funds on teacher training, salaries, benefits, recruitment, and retention; and

(D) the effect of use of the quality improvement funds on the development of children receiving services under this subchapter.

(42 U.S.C. 9844)

SEC. 650. REPORTS.

(a) STATUS OF CHILDREN.—At least once during every 2-year period, the Secretary shall prepare and submit, to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the status of children (including disabled and non-English language background children) in Head Start programs, including the number of children and the services being provided to such children. Such report shall include—

(1) a statement for the then most recently concluded fiscal year specifying—

(A) the amount of funds received by Head Start agencies designated under section 641 to provide Head Start services in a period before such fiscal year; and

(B) the amount of funds received by Head Start agencies newly designated under section 641 to provide such services in such fiscal year;

(2) a description of the distribution of Head Start services relative to the distribution of children who are eligible to participate in Head Start programs, including geographic distribution within States;

(3) a statement identifying how funds expended under section 640(a)(2), and funds allotted under section 640(a)(3), were distributed and used at national, regional, and local levels;

(4) a statement specifying the amount of funds provided by the State, and by local sources, to carry out Head Start programs;

(5) cost per child and how such cost varies by region;

(6) a description of the level and nature of participation of parents in Head Start programs as volunteers and in other capacities;

(7) information concerning Head Start staff, including salaries, education, training, experience, and staff turnover;

(8) information concerning children participating in programs that receive Head Start funding, including information on family income, racial and ethnic background, disability, and receipt of benefits under part A of title IV of the Social Security Act;

(9) the use and source of funds to extend Head Start services to operate full-day and year round;

(10) using data from the monitoring conducted under section 641A(c)—

(A) a description of the extent to which programs funded under this subchapter comply with performance standards and regulations in effect under this subchapter;

(B) a description of the types and condition of facilities in which such programs are located;

(C) the types of organizations that receive Head Start funds under such programs; and

(D) the number of children served under each program option;

(11) the information contained in the documents entitled "Program Information Report" and "Head Start Cost Analyses System" (or any document similar to either), prepared with respect to Head Start programs;

(12) a description of the types of services provided to children and their families, both on-site and through referrals, including health, mental health, dental care, parenting education, physical fitness, and literacy training;

(13) a summary of information concerning the research, demonstration, and evaluation activities conducted under section 649, including—

(A) a status report on ongoing activities; and

(B) results, conclusions, and recommendations, not included in any previous report, based on completed activities; and

(14) a study of the delivery of Head Start programs to Indian children living on and near Indian reservations, to children of Alaskan Natives, and to children of migrant and seasonal farmworkers.

Promptly after submitting such report to the Committee on Education and the Workforce of the House of Representatives and the

Committee on Labor and Human Resources of the Senate, the Secretary shall publish in the Federal Register a notice indicating that such report is available to the public and specifying how such report may be obtained.

(b) FACILITIES.—At least once during every 5-year period, the Secretary shall prepare and submit, to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the condition, location, and ownership of facilities used, or available to be used, by Indian Head Start agencies (including Native Alaskan Head Start agencies) and Native Hawaiian Head Start agencies.

(42 U.S.C. 9846)

[Sections 651A and 652 were repealed by section 119 of the Human Services Amendments of 1994, 108 Stat. 648.]

COMPARABILITY OF WAGES

SEC. 653. The Secretary shall take such action as may be necessary to assure that persons employed in carrying out programs financed under this subchapter shall not receive compensation at a rate which is (1) in excess of the average rate of compensation paid in the area where the program is carried out to a substantial number of the persons providing substantially comparable services, or in excess of the average rate of compensation paid to a substantial number of the persons providing substantially comparable services in the area of the person's immediately preceding employment, whichever is higher; or (2) less than the minimum wage rate prescribed in section 6(a)(1) of the Fair Labor Standards Act of 1938. The Secretary shall encourage Head Start agencies to provide compensation according to salary scales that are based on training and experience.

(42 U.S.C. 9848)

NONDISCRIMINATION PROVISIONS

SEC. 654. (a) The Secretary shall not provide financial assistance for any program, project, or activity under this subchapter unless the grant or contract with respect thereto specifically provides that no person with responsibilities in the operation thereof will discriminate with respect to any such program, project, or activity because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(b) No person in the United States shall on the ground of sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any program or activity receiving assistance under this subchapter. The Secretary shall enforce the provisions of the preceding sentence in accordance with section 602 of the Civil Rights Act of 1964. Section 603 of such Act shall apply with respect to any action taken by the Secretary to enforce such sentence. This section shall not be construed as affecting any other legal remedy that a person may have if such person is excluded from participation in, denied the benefit of, subjected to discrimination under, or denied

employment in connection with, any program, project, or activity receiving assistance under this subchapter.

(c) The Secretary shall not provide financial assistance for any program, project, or activity under this subchapter unless the grant or contract relating to the financial assistance specifically provides that no person with responsibilities in the operation of the program, project, or activity will discriminate against any individual because of a handicapping condition in violation of section 504 of the Rehabilitation Act of 1973.

(42 U.S.C. 9849)

LIMITATION WITH RESPECT TO CERTAIN UNLAWFUL ACTIVITIES

SEC. 655. No individual employed or assigned by any Head Start agency or other agency assisted under this subchapter shall, pursuant to or during the performance of services rendered in connection with any program or activity conducted or assisted under this subchapter by such Head Start agency or such other agency, plan, initiate, participate in, or otherwise aid or assist in the conduct of any unlawful demonstration, rioting, or civil disturbance.

(42 U.S.C. 9850)

POLITICAL ACTIVITIES

SEC. 656. (a) For purposes of chapter 15 of title 5, United States Code, any agency which assumes responsibility for planning, developing, and coordinating Head Start programs and receives assistance under this subchapter shall be deemed to be a State or local agency. For purposes of clauses (1) and (2) of section 150(2)(a) of such title, any agency receiving assistance under this subchapter shall be deemed to be a State or local agency.

(b) Programs assisted under this subchapter shall not be carried on in a manner involving the use of program funds, the provision of services, or the employment or assignment of personnel in a manner supporting or resulting in the identification of such programs with (1) any partisan or nonpartisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office; (2) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or (3) any voter registration activity. The Secretary, after consultation with the Office of Personnel Management, shall issue rules and regulations to provide for the enforcement of this section, which shall include provisions for summary suspension of assistance or other action necessary to permit enforcement on an emergency basis.

(42 U.S.C. 9851)

ADVANCE FUNDING

SEC. 657. For the purpose of affording adequate notice of funding available under this subchapter, appropriations for carrying out this subchapter are authorized to be included in an appropriation Act for the fiscal year preceding the fiscal year for which they are available for obligation.

(42 U.S.C. 9852)

[Section 657A repealed by section 118 of the Head Start Amendments of 1998, 112 Stat. 2727.]

Subchapter C—Child Care and Development Block Grant

SEC. 658A. SHORT TITLE AND GOALS[1].

(a) SHORT TITLE.—This subchapter may be cited as the "Child Care and Development Block Grant Act of 1990".

(b) GOALS.—The goals of this subchapter are—

(1) to allow each State maximum flexibility in developing child care programs and policies that best suit the needs of children and parents within such State;

(2) to promote parental choice to empower working parents to make their own decisions on the child care that best suits their family's needs;

(3) to encourage States to provide consumer education information to help parents make informed choices about child care;

(4) to assist States to provide child care to parents trying to achieve independence from public assistance; and

(5) to assist States in implementing the health, safety, licensing, and registration standards established in State regulations.

(42 U.S.C. 9801 note)

SEC. 658B. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subchapter $1,000,000,000 for each of the fiscal years 1996 through 2002.

(42 U.S.C. 9858)

SEC. 658C. ESTABLISHMENT OF BLOCK GRANT PROGRAM.

The Secretary is authorized to make grants to States in accordance with the provisions of this subchapter.

(42 U.S.C. 9858a)

SEC. 658D. LEAD AGENCY.

(a) DESIGNATION.—The chief executive officer of a State desiring to receive a grant under this subchapter shall designate, in an application submitted to the Secretary under section 658E, an appropriate State agency that complies with the requirements of subsection (b) to act as the lead agency.

(b) DUTIES.—

(1) IN GENERAL.—The lead agency shall—

(A) administer, directly or through other governmental or nongovernmental agencies, the financial assistance received under this subchapter by the State;

(B) develop the State plan to be submitted to the Secretary under section 658E(a);

(C) in conjunction with the development of the State plan as required under subparagraph (B), hold at least one hearing in the State with sufficient time and Statewide distribution of the notice of such hearing, to provide to the

[1] Section 602(1) of P.L. 104–193 (110 Stat. 2279) amended the heading of this section by inserting "AND GOALS" after "TITLE". The amendment probably should have been to insert "**AND GOALS**" after "**TITLE**".

public an opportunity to comment on the provision of child care services under the State plan; and

(D) coordinate the provision of services under this subchapter with other Federal, State and local child care and early childhood development programs.

(2) DEVELOPMENT OF PLAN.—In the development of the State plan described in paragraph (1)(B), the lead agency shall consult with appropriate representatives of units of general purpose local government.

(42 U.S.C. 9858b)

SEC. 658E. APPLICATION AND PLAN.

(a) APPLICATION.—To be eligible to receive assistance under this subchapter, a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary shall by rule require, including—

(1) an assurance that the State will comply with the requirements of this subchapter; and

(2) a State plan that meets the requirements of subsection (c).

(b) PERIOD COVERED BY PLAN.—The State plan contained in the application under subsection (a) shall be designed to be implemented during a 2-year period.

(c) REQUIREMENTS OF A PLAN.—

(1) LEAD AGENCY.—The State plan shall identify the lead agency designated under section 658D.

(2) POLICIES AND PROCEDURES.—The State plan shall:

(A) PARENTAL CHOICE OF PROVIDERS.—Provide assurances that—

(i) the parent or parents of each eligible child within the State who receives or is offered child care services for which financial assistance is provided under this subchapter are given the option either—

(I) to enroll such child with a child care provider that has a grant or contract for the provision of such services; or

(II) to receive a child care certificate as defined in section 658P(2);

(ii) in cases in which the parent selects the option described in clause (i)(I), the child will be enrolled with the eligible provider selected by the parent to the maximum extent practicable; and

(iii) child care certificates offered to parents selecting the option described in clause (i)(II) shall be of a value commensurate with the subsidy value of child care services provided under the option described in clause (i)(I);

and provide a detailed description of the procedures the State will implement to carry out the requirements of this subparagraph.

(B) UNLIMITED PARENTAL ACCESS.—Certify that procedures are in effect within the State to ensure that child care providers who provide services for which assistance is made available under this subchapter afford parents unlimited access to their children and to the providers caring

for their children, during the normal hours of operation of such providers and whenever such children are in the care of such providers and provide a detailed description of such procedures.

(C) PARENTAL COMPLAINTS.—Certify that the State maintains a record of substantiated parental complaints and makes information regarding such parental complaints available to the public on request and provide a detailed description of how such record is maintained and is made available.

(D) CONSUMER EDUCATION INFORMATION.—Certify that the State will collect and disseminate to parents of eligible children and the general public, consumer education information that will promote informed child care choices.

(E) COMPLIANCE WITH STATE LICENSING REQUIREMENTS.—

(i) IN GENERAL.—Certify that the State has in effect licensing requirements applicable to child care services provided within the State, and provide a detailed description of such requirements and of how such requirements are effectively enforced. Nothing in the preceding sentence shall be construed to require that licensing requirements be applied to specific types of providers of child care services.

(ii) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—In lieu of any licensing and regulatory requirements applicable under State and local law, the Secretary, in consultation with Indian tribes and tribal organizations, shall develop minimum child care standards (that appropriately reflect tribal needs and available resources) that shall be applicable to Indian tribes and tribal organizations receiving assistance under this subchapter.

(F) ESTABLISHMENT OF HEALTH AND SAFETY REQUIREMENTS.—Certify that there are in effect within the State, under State or local law, requirements designed to protect the health and safety of children that are applicable to child care providers that provide services for which assistance is made available under this subchapter. Such requirements shall include—

(i) the prevention and control of infectious diseases (including immunization);

(ii) building and physical premises safety; and

(iii) minimum health and safety training appropriate to the provider setting.

Nothing in this subparagraph shall be construed to require the establishment of additional health and safety requirements for child care providers that are subject to health and safety requirements in the categories described in this subparagraph on the date of enactment of this subchapter under State or local law.

(G) COMPLIANCE WITH STATE AND LOCAL HEALTH AND SAFETY REQUIREMENTS.—Certify that procedures are in effect to ensure that child care providers within the State that provide services for which assistance is provided

under this subchapter comply with all applicable State or local health and safety requirements as described in subparagraph (F).

(H) MEETING THE NEEDS OF CERTAIN POPULATIONS.—Demonstrate the manner in which the State will meet the specific child care needs of families who are receiving assistance under a State program under part A of title IV of the Social Security Act, families who are attempting through work activities to transition off of such assistance program, and families that are at risk of becoming dependent on such assistance program.

(3) USE OF BLOCK GRANT FUNDS.—

(A) GENERAL REQUIREMENT.—The State plan shall provide that the State will use the amounts provided to the State for each fiscal year under this subchapter as required under subparagraphs (B) through (D).

(B) CHILD CARE SERVICES AND RELATED ACTIVITIES.—The State shall use amounts provided to the State for each fiscal year under this subchapter for child care services on a sliding fee scale basis, activities that improve the quality or availability of such services, and any other activity that the State deems appropriate to realize any of the goals specified in paragraphs (2) through (5) of section 658A(b), with priority being given for services provided to children of families with very low family incomes (taking into consideration family size) and to children with special needs.

(C) LIMITATION ON ADMINISTRATIVE COSTS.—Not more than 5 percent of the aggregate amount of funds available to the State to carry out this subchapter by a State in each fiscal year may be expended for administrative costs incurred by such State to carry out all of its functions and duties under this subchapter. As used in the preceding sentence, the term "administrative costs" shall not include the costs of providing direct services.

(D) ASSISTANCE FOR CERTAIN FAMILIES.—A State shall ensure that a substantial portion of the amounts available (after the State has complied with the requirement of section 418(b)(2) of the Social Security Act with respect to each of the fiscal years 1997 through 2002) to the State to carry out activities under this subchapter in each fiscal year is used to provide assistance to low-income working families other than families described in paragraph (2)(H).

(4) PAYMENT RATES.—

(A) IN GENERAL.—The State plan shall certify that payment rates for the provision of child care services for which assistance is provided under this subchapter are sufficient to ensure equal access for eligible children to comparable child care services in the State or substate area that are provided to children whose parents are not eligible to receive assistance under this subchapter or for child care assistance under any other Federal or State programs and shall provide a summary of the facts relied on by the State to determine that such rates are sufficient to ensure such access.

(B) CONSTRUCTION.—Nothing in this paragraph shall be construed to create a private right of action.

(5) SLIDING FEE SCALE.—The State plan shall provide that the State will establish and periodically revise, by rule, a sliding fee scale that provides for cost sharing by the families that receive child care services for which assistance is provided under this subchapter.

(d) APPROVAL OF APPLICATION.—The Secretary shall approve an application that satisfies the requirements of this section.

(42 U.S.C. 9858c)

SEC. 658F. LIMITATIONS ON STATE ALLOTMENTS.

(a) NO ENTITLEMENT TO CONTRACT OR GRANT.—Nothing in this subchapter shall be construed—

(1) to entitle any child care provider or recipient of a child care certificate to any contract, grant or benefit; or

(2) to limit the right of any State to impose additional limitations or conditions on contracts or grants funded under this subchapter.

(b) CONSTRUCTION OF FACILITIES.—

(1) IN GENERAL.—Except as provided for in section 658O(c)(6), no funds made available under this subchapter shall be expended for the purchase or improvement of land, or for the purchase, construction, or permanent improvement (other than minor remodeling) of any building or facility.

(2) SECTARIAN AGENCY OR ORGANIZATION.—In the case of a sectarian agency or organization, no funds made available under this subchapter may be used for the purposes described in paragraph (1) except to the extent that renovation or repair is necessary to bring the facility of such agency or organization into compliance with health and safety requirements referred to in section 658E(c)(2)(F).

(42 U.S.C. 9858d)

SEC. 658G. ACTIVITIES TO IMPROVE THE QUALITY OF CHILD CARE.

A State that receives funds to carry out this subchapter for a fiscal year, shall use not less than 4 percent of the amount of such funds for activities that are designed to provide comprehensive consumer education to parents and the public, activities that increase parental choice, and activities designed to improve the quality and availability of child care (such as resource and referral services).

(42 U.S.C. 9858e)

[Section 658H was repealed by section 608 of P.L. 104–193]

SEC. 658I. ADMINISTRATION AND ENFORCEMENT.

(a) ADMINISTRATION.—The Secretary shall—

(1) coordinate all activities of the Department of Health and Human Services relating to child care, and, to the maximum extent practicable, coordinate such activities with similar activities of other Federal entities;

(2) collect, publish and make available to the public a listing of State child care standards at least once every 3 years; and

(3) provide technical assistance to assist States to carry out this subchapter, including assistance on a reimbursable basis.

(b) ENFORCEMENT.—

(1) REVIEW OF COMPLIANCE WITH STATE PLAN.—The Secretary shall review and monitor State compliance with this subchapter and the plan approved under section 658E(c) for the State.

(2) NONCOMPLIANCE.—

(A) IN GENERAL.—If the Secretary, after reasonable notice to a State and opportunity for a hearing, finds that—

(i) there has been a failure by the State to comply substantially with any provision or requirement set forth in the plan approved under section 658E(c) for the State; or

(ii) in the operation of any program for which assistance is provided under this subchapter there is a failure by the State to comply substantially with any provision of this subchapter;

the Secretary shall notify the State of the finding and shall require that the State reimburse the Secretary for any funds that were improperly expended for purposes prohibited or not authorized by this subchapter, that the Secretary deduct from the administrative portion of the State allotment for the following fiscal year an amount that is less than or equal to any improperly expended funds, or a combination of such options.

(B) ADDITIONAL SANCTIONS.—In the case of a finding of noncompliance made pursuant to subparagraph (A), the Secretary may, in addition to imposing the sanctions described in such subparagraph, impose other appropriate sanctions, including recoupment of money improperly expended for purposes prohibited or not authorized by this subchapter, and disqualification from the receipt of financial assistance under this subchapter.

(C) NOTICE.—The notice required under subparagraph (A) shall include a specific identification of any additional sanction being imposed under subparagraph (B).

(3) ISSUANCE OF RULES.—The Secretary shall establish by rule procedures for—

(A) receiving, processing, and determining the validity of complaints concerning any failure of a State to comply with the State plan or any requirement of this subchapter; and

(B) imposing sanctions under this section.

(42 U.S.C. 9858g)

SEC. 658J. PAYMENTS.

(a) IN GENERAL.—Subject to the availability of appropriations, a State that has an application approved by the Secretary under section 658E(d) shall be entitled to a payment under this section for each fiscal year in an amount equal to its allotment under section 658O for such fiscal year.

(b) METHOD OF PAYMENT.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may make payments to a State in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(2) LIMITATION.—The Secretary may not make such payments in a manner that prevents the State from complying with the requirement specified in section 658E(c)(3).

(c) SPENDING OF FUNDS BY STATE.—Payments to a State from the allotment under section 658O for any fiscal year may be obligated by the State in that fiscal year or in the succeeding fiscal year.

(42 U.S.C. 9858h)

SEC. 658K. REPORTS[1] **AND AUDITS.**

(a) REPORTS.—

(1) COLLECTION OF INFORMATION BY STATES.—

(A) IN GENERAL.—A State that receives funds to carry out this subchapter shall collect the information described in subparagraph (B) on a monthly basis.

(B) REQUIRED INFORMATION.—The information required under this subparagraph shall include, with respect to a family unit receiving assistance under this subchapter information concerning—

(i) family income;

(ii) county of residence;

(iii) the gender, race, and age of children receiving such assistance;

(iv) whether the head of the family unit is a single parent;

(v) the sources of family income, including—

(I) employment, including self-employment;

(II) cash or other assistance under—

(aa) the temporary assistance for needy families program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and

(bb) a State program for which State spending is counted toward the maintenance of effort requirement under section 409(a)(7) of the Social Security Act (42 U.S.C. 609(a)(7));

(III) housing assistance;

(IV) assistance under the Food Stamp Act of 1977; and

(V) other assistance programs;

(vi) the number of months the family has received benefits;

(vii) the type of child care in which the child was enrolled (such as family child care, home care, or center-based child care);

[1] Section 611(1) of P.L. 104–193 (110 Stat. 2284) amended the heading for this section by striking "ANNUAL REPORT" and inserting "REPORTS". The amendment probably should have been to strike "**ANNUAL REPORT**" and insert "**REPORTS**".

(viii) whether the child care provider involved was a relative;

(ix) the cost of child care for such families; and

(x) the average hours per month of such care;

during the period for which such information is required to be submitted.

(C) SUBMISSION TO SECRETARY.—A State described in subparagraph (A) shall, on a quarterly basis, submit the information required to be collected under subparagraph (B) to the Secretary.

(D) USE OF SAMPLES.—

(i) AUTHORITY.—A State may comply with the requirement to collect the information described in subparagraph (B) through the use of disaggregated case record information on a sample of families selected through the use of scientifically acceptable sampling methods approved by the Secretary.

(ii) SAMPLING AND OTHER METHODS.—The Secretary shall provide the States with such case sampling plans and data collection procedures as the Secretary deems necessary to produce statistically valid samples of the information described in subparagraph (B). The Secretary may develop and implement procedures for verifying the quality of data submitted by the States.

(2) ANNUAL REPORTS.—Not later than December 31, 1997, and every 12 months thereafter, a State described in paragraph (1)(A) shall prepare and submit to the Secretary a report that includes aggregate data concerning—

(A) the number of child care providers that received funding under this subchapter as separately identified based on the types of providers listed in section 658P(5);

(B) the monthly cost of child care services, and the portion of such cost that is paid for with assistance provided under this subchapter, listed by the type of child care services provided;

(C) the number of payments made by the State through vouchers, contracts, cash, and disregards under public benefit programs, listed by the type of child care services provided;

(D) the manner in which consumer education information was provided to parents and the number of parents to whom such information was provided; and

(E) the total number (without duplication) of children and families served under this subchapter;

during the period for which such report is required to be submitted.

(b) AUDITS.—

(1) REQUIREMENT.—A State shall, after the close of each program period covered by an application approved under section 658E(d) audit its expenditures during such program period from amounts received under this subchapter.

(2) INDEPENDENT AUDITOR.—Audits under this subsection shall be conducted by an entity that is independent of the

State that receives assistance under this subchapter and be in accordance with generally accepted auditing principles.

(3) SUBMISSION.—Not later than 30 days after the completion of an audit under this subsection, the State shall submit a copy of the audit to the legislature of the State and to the Secretary.

(4) REPAYMENT OF AMOUNTS.—Each State shall repay to the United States any amounts determined through an audit under this subsection not to have been expended in accordance with this subchapter, or the Secretary may offset such amounts against any other amount to which the State is or may be entitled under this subchapter.

(42 U.S.C. 9858i)

SEC. 658L. REPORT BY SECRETARY.

Not later than July 31, 1998, and biennially thereafter, the Secretary shall prepare and submit to the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report that contains a summary and analysis of the data and information provided to the Secretary in the State reports submitted under section 658K. Such report shall include an assessment, and where appropriate, recommendations for the Congress concerning efforts that should be undertaken to improve the access of the public to quality and affordable child care in the United States.

(42 U.S.C. 9858j)

SEC. 658M. LIMITATIONS ON USE OF FINANCIAL ASSISTANCE FOR CERTAIN PURPOSES.

(a) SECTARIAN PURPOSES AND ACTIVITIES.—No financial assistance provided under this subchapter, pursuant to the choice of a parent under section 658E(c)(2)(A)(i)(I) or through any other grant or contract under the State plan, shall be expended for any sectarian purpose or activity, including sectarian worship or instruction.

(b) TUITION.—With regard to services provided to students enrolled in grades 1 through 12, no financial assistance provided under this subchapter shall be expended for—

(1) any services provided to such students during the regular school day;

(2) any services for which such students receive academic credit toward graduation; or

(3) any instructional services which supplant or duplicate the academic program of any public or private school.

(42 U.S.C. 9858k)

SEC. 658N. NONDISCRIMINATION.

(a) RELIGIOUS NONDISCRIMINATION.—

(1) CONSTRUCTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), nothing in this section shall be construed to modify or affect the provisions of any other Federal law or regulation that relates to discrimination in employment on the basis of religion.

(B) EXCEPTION.—A sectarian organization may require that employees adhere to the religious tenets and teach-

ings of such organization, and such organization may require that employees adhere to rules forbidding the use of drugs or alcohol.

(2) DISCRIMINATION AGAINST CHILD.—

(A) IN GENERAL.—A child care provider (other than a family child care provider) that receives assistance under this subchapter shall not discriminate against any child on the basis of religion in providing child care services.

(B) NON-FUNDED CHILD CARE SLOTS.—Nothing in this section shall prohibit a child care provider from selecting children for child care slots that are not funded directly with assistance provided under this subchapter because such children or their family members participate on a regular basis in other activities of the organization that owns or operates such provider.

(3) EMPLOYMENT IN GENERAL.—

(A) PROHIBITION.—A child care provider that receives assistance under this subchapter shall not discriminate in employment on the basis of the religion of the prospective employee if such employee's primary responsibility is or will be working directly with children in the provision of child care services.

(B) QUALIFIED APPLICANTS.—If two or more prospective employees are qualified for any position with a child care provider receiving assistance under this subchapter, nothing in this section shall prohibit such child care provider from employing a prospective employee who is already participating on a regular basis in other activities of the organization that owns or operates such provider.

(C) PRESENT EMPLOYEES.—This paragraph shall not apply to employees of child care providers receiving assistance under this subchapter if such employees are employed with the provider on the date of enactment of this subchapter.

(4) EMPLOYMENT AND ADMISSION PRACTICES.—Notwithstanding paragraphs (1)(B), (2), and (3), if assistance provided under this subchapter, and any other Federal or State program, amounts to 80 percent or more of the operating budget of a child care provider that receives such assistance, the Secretary shall not permit such provider to receive any further assistance under this subchapter unless the grant or contract relating to the financial assistance, or the employment and admissions policies of the provider, specifically provides that no person with responsibilities in the operation of the child care program, project, or activity of the provider will discriminate against any individual in employment, if such employee's primary responsibility is or will be working directly with children in the provision of child care, or admissions because of the religion of such individual.

(b) EFFECT ON STATE LAW.—Nothing in this subchapter shall be construed to supersede or modify any provision of a State constitution or State law that prohibits the expenditure of public funds in or by sectarian institutions, except that no provision of a State constitution or State law shall be construed to prohibit the expendi-

ture in or by sectarian institutions of any Federal funds provided under this subchapter.

(42 U.S.C. 9858l)

SEC. 658O. AMOUNTS RESERVED; ALLOTMENTS.

(a) AMOUNTS RESERVED.—

(1) TERRITORIES AND POSSESSIONS.—The Secretary shall reserve not to exceed one half of 1 percent of the amount appropriated under this subchapter in each fiscal year for payments to Guam, American Samoa, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands to be allotted in accordance with their respective needs.

(2) INDIANS TRIBES.—The Secretary shall reserve not less than 1 percent, and not more than 2 percent, of the amount appropriated under section 658B in each fiscal year for payments to Indian tribes and tribal organizations with applications approved under subsection (c).

(b) STATE ALLOTMENT.—

(1) GENERAL RULE.—From the amounts appropriated under section 658B for each fiscal year remaining after reservations under subsection (a), the Secretary shall allot to each State an amount equal to the sum of—

(A) an amount that bears the same ratio to 50 percent of such remainder as the product of the young child factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States; and

(B) an amount that bears the same ratio to 50 percent of such remainder as the product of the school lunch factor of the State and the allotment percentage of the State bears to the sum of the corresponding products for all States.

(2) YOUNG CHILD FACTOR.—The term "young child factor" means the ratio of the number of children in the State under 5 years of age to the number of such children in all States as provided by the most recent annual estimates of population in the States by the Census Bureau of the Department of Commerce.

(3) SCHOOL LUNCH FACTOR.—The term "school lunch factor" means the ratio of the number of children in the State who are receiving free or reduced price lunches under the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) to the number of such children in all the States as determined annually by the Department of Agriculture.

(4) ALLOTMENT PERCENTAGE.—

(A) IN GENERAL.—The allotment percentage for a State is determined by dividing the per capita income of all individuals in the United States, by the per capita income of all individuals in the State.

(B) LIMITATIONS.—If an allotment percentage determined under subparagraph (A)—

(i) exceeds 1.2 percent, then the allotment percentage of that State shall be considered to be 1.2 percent; and

(ii) is less than 0.8 percent, then the allotment percentage of the State shall be considered to be 0.8 percent.

(C) PER CAPITA INCOME.—For purposes of subparagraph (A), per capita income shall be—

(i) determined at 2-year intervals;

(ii) applied for the 2-year period beginning on October 1 of the first fiscal year beginning on the date such determination is made; and

(iii) equal to the average of the annual per capita incomes for the most recent period of 3 consecutive years for which satisfactory data are available from the Department of Commerce at the time such determination is made.

(c) PAYMENTS FOR THE BENEFIT OF INDIAN CHILDREN.—

(1) GENERAL AUTHORITY.—From amounts reserved under subsection (a)(2), the Secretary may make grants to or enter into contracts with Indian tribes or tribal organizations that submit applications under this section, for the planning and carrying out of programs or activities consistent with the purposes of this subchapter.

(2) APPLICATIONS AND REQUIREMENTS.—An application for a grant or contract under this section shall provide that:

(A) COORDINATION.—The applicant will coordinate, to the maximum extent feasible, with the lead agency in the State or States in which the applicant will carry out programs or activities under this section.

(B) SERVICES ON RESERVATIONS.—In the case of an applicant located in a State other than Alaska, California, or Oklahoma, programs and activities under this section will be carried out on the Indian reservation for the benefit of Indian children.

(C) REPORTS AND AUDITS.—The applicant will make such reports on, and conduct such audits of, programs and activities under a grant or contract under this section as the Secretary may require.

(3) CONSIDERATION OF SECRETARIAL APPROVAL.—In determining whether to approve an application for a grant or contract under this section, the Secretary shall take into consideration—

(A) the availability of child care services provided in accordance with this subchapter by the State or States in which the applicant proposes to carry out a program to provide child care services; and

(B) whether the applicant has the ability (including skills, personnel, resources, community support, and other necessary components) to satisfactorily carry out the proposed program or activity.

(4) THREE-YEAR LIMIT.—Grants or contracts under this section shall be for periods not to exceed 3 years.

(5) DUAL ELIGIBILITY OF INDIAN CHILDREN.—The awarding of a grant or contract under this section for programs or activi-

ties to be conducted in a State or States shall not affect the eligibility of any Indian child to receive services provided or to participate in programs and activities carried out under a grant to the State or States under this subchapter.

(6) CONSTRUCTION OR RENOVATION OF FACILITIES.—

(A) REQUEST FOR USE OF FUNDS.—An Indian tribe or tribal organization may submit to the Secretary a request to use amounts provided under this subsection for construction or renovation purposes.

(B) DETERMINATION.—With respect to a request submitted under subparagraph (A), and except as provided in subparagraph (C), upon a determination by the Secretary that adequate facilities are not otherwise available to an Indian tribe or tribal organization to enable such tribe or organization to carry out child care programs in accordance with this subchapter, and that the lack of such facilities will inhibit the operation of such programs in the future, the Secretary may permit the tribe or organization to use assistance provided under this subsection to make payments for the construction or renovation of facilities that will be used to carry out such programs.

(C) LIMITATION.—The Secretary may not permit an Indian tribe or tribal organization to use amounts provided under this subsection for construction or renovation if such use will result in a decrease in the level of child care services provided by the tribe or organization as compared to the level of such services provided by the tribe or organization in the fiscal year preceding the year for which the determination under subparagraph (B) is being made.

(D) UNIFORM PROCEDURES.—The Secretary shall develop and implement uniform procedures for the solicitation and consideration of requests under this paragraph.

(d) DATA AND INFORMATION.—The Secretary shall obtain from each appropriate Federal agency, the most recent data and information necessary to determine the allotments provided for in subsection (b).

(e) REALLOTMENTS.—

(1) IN GENERAL.—Any portion of the allotment under subsection (b) to a State that the Secretary determines is not required to carry out a State plan approved under section 658E(d), in the period for which the allotment is made available, shall be reallotted by the Secretary to other States in proportion to the original allotments to the other States.

(2) LIMITATIONS.—

(A) REDUCTION.—The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 658E(d).

(B) REALLOTMENTS.—The amount of such reduction shall be similarly reallotted among States for which no reduction in an allotment or reallotment is required by this subsection.

(3) AMOUNTS REALLOTTED.—For purposes of any other section of this subchapter, any amount reallotted to a State under

this subsection shall be considered to be part of the allotment made under subsection (b) to the State.

(4) INDIAN TRIBES OR TRIBAL ORGANIZATIONS.—Any portion of a grant or contract made to an Indian tribe or tribal organization under subsection (c) that the Secretary determines is not being used in a manner consistent with the provision of this subchapter in the period for which the grant or contract is made available, shall be allotted by the Secretary to other tribes or organizations that have submitted applications under subsection (c) in accordance with their respective needs.

(f) DEFINITION.—For the purposes of this section, the term "State" includes only the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(42 U.S.C. 9858m)

SEC. 658P. DEFINITIONS.

As used in this subchapter:

(1) CAREGIVER.—The term "caregiver" means an individual who provides a service directly to an eligible child on a person-to-person basis.

(2) CHILD CARE CERTIFICATE.—The term "child care certificate" means a certificate (that may be a check or other disbursement) that is issued by a State or local government under this subchapter directly to a parent who may use such certificate only as payment for child care services or as a deposit for child care services if such a deposit is required of other children being cared for by the provider. Nothing in this subchapter shall preclude the use of such certificates for sectarian child care services if freely chosen by the parent. For purposes of this subchapter, child care certificates shall not be considered to be grants or contracts.

[Paragraph (3) was repealed by section 614 of P.L. 104–193]

(4) ELIGIBLE CHILD.—The term "eligible child" means an individual—

(A) who is less than 13 years of age;

(B) whose family income does not exceed 85 percent of the State median income for a family of the same size; and

(C) who—

(i) resides with a parent or parents who are working or attending a job training or educational program; or

(ii) is receiving, or needs to receive, protective services and resides with a parent or parents not described in clause (i).

(5) ELIGIBLE CHILD CARE PROVIDER.—The term "eligible child care provider" means—

(A) a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

(i) is licensed, regulated, or registered under State law as described in section 658E(c)(2)(E); and

(ii) satisfies the State and local requirements, including those referred to in section 658E(c)(2)(F);

applicable to the child care services it provides; or

(B) a child care provider that is 18 years of age or older who provides child care services only to eligible children who are, by affinity or consanguinity, or by court decree, the grandchild, great grandchild, sibling (if such provider lives in a separate residence), niece, or nephew of such provider, if such provider complies with any applicable requirements that govern child care provided by the relative involved.

(6) FAMILY CHILD CARE PROVIDER.—The term "family child care provider" means one individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in a private residence.

(7) INDIAN TRIBE.—The term "Indian tribe" has the meaning given it in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(8) LEAD AGENCY.—The term "lead agency" means the agency designated under section 658B(a)[1].

(9) PARENT.—The term "parent" includes a legal guardian or other person standing in loco parentis.

[Paragraph 10 was repealed by section 614 of P.L. 104–193]

(11) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services unless the context specifies otherwise.

(12) SLIDING FEE SCALE.—The term "sliding fee scale" means a system of cost sharing by a family based on income and size of the family.

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

(14) TRIBAL ORGANIZATION.—

(A) IN GENERAL.—The term "tribal organization" has the meaning given it in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).

(B) OTHER ORGANIZATIONS.—Such term includes a Native Hawaiian Organization, as defined in section 4009(4)[2] of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (20 U.S.C. 4909(4)) and a private nonprofit organization established for the purpose of serving youth who are Indians or Native Hawaiians.

(42 U.S.C. 9858n)

[1] So in law. Probably should read "section 658D(a)".

[2] So in law. This reference probably should be to "section 9212(3) of the Elementary and Secondary Education Act of 1965".

SEC. 658Q. PARENTAL RIGHTS AND RESPONSIBILITIES.

Nothing in this subchapter shall be construed or applied in any manner to infringe on or usurp the moral and legal rights and responsibilities of parents or legal guardians.

(42 U.S.C. 9858o)

SEC. 658R. SEVERABILITY.

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions of applications of this subchapter which can be given effect without regard to the invalid provision or application, and to this end the provisions of this subchapter shall be severable.

(42 U.S.C. 9858p)

SEC. 658S. MISCELLANEOUS PROVISIONS.

Notwithstanding any other law, the value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under this subchapter shall not be treated as income for purposes of any other Federal or Federally-assisted program that bases eligibility, or the amount of benefits, on need.

(42 U.S.C. 9858q)

[Subchapter D—Follow Through Programs]

[Secs. 661–669a.]

[The Follow Through Act was repealed by section 391(w) of the Improving America's Schools Act of 1994.]

Subchapter E—Grants to States for Planning and Development of Dependent Care Programs and for Other Purposes

AUTHORIZATION OF APPROPRIATIONS

SEC. 670A. For the purpose of making allotments to States to carry out the activities described in section 670D, there is authorized to be appropriated $13,000,000 for fiscal year 1995.

(42 U.S.C. 9871)

ALLOTMENTS

SEC. 670B. (a) From the amounts appropriated under section 6701A for each fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the total amount appropriated under such section for such fiscal year as the population of the State bears to the population of all States, except that no State may receive less than $50,000 in each fiscal year.

(b) For the purpose of the exception contained in subsection (a), the term "State" does not include Guam, American Samoa, the Virgin Islands,[1] the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(42 U.S.C. 9872)

[1] Reference should be to the Virgin Islands of the United States.

PAYMENTS UNDER ALLOTMENTS TO STATES

SEC. 670C. The Secretary shall make payment, as provided by section 6503(a) of title 31, United States Code, to each State from its allotment under section 670B from amounts appropriated under section 670A.

(42 U.S.C. 9873)

USE OF ALLOTMENTS

SEC. 670D. (a)(1) Subject to the provisions of subsections (c) and (d), amounts paid to a State under section 670C from it allotment under section 670B may be used for the planning, development, establishment, operation, expansion, or improvement by the States, directly or by grant or contract with public or private entities, of State and local resource and referral systems to provide information concerning the availability, types, costs, and locations of dependent care services. The information provided by any such system may include—

(A) the types of dependent care services available, including services provided by individual homes, religious organizations, community organizations, employers, private industry, and public and private institutions;

(B) the cost of available dependent care services;

(C) the locations in which dependent care services are provided;

(D) the forms of transportation available to such locations;

(E) the hours during which such dependent care services are available;

(F) the dependents eligible to enroll for such dependent care services; and

(G) any resource and referral system planned, developed, established, expanded, or improved with amounts paid to a State under this subchapter.

(2) The State, with respect to the uses of funds described in paragraph (1) of this subsection shall—

(A) provide assurances that no information will be included with respect to any dependent care services which are not provided in compliance with the laws of the State and localities in which such services are provided; and

(B) provide assurances that the information provided will be the latest information available and will be kept up to date.

(b)(1) Subject to the provisions of subsections (c) and (d), amounts paid to a State under section 670C from its allotment under section 670B may be used for the planning, development, establishment, operation, expansion, or improvement by the States, directly, or by grant or contract, with public agencies or private nonprofit organizations of programs to furnish school-age child care services before and after school. Amounts so paid to a State and used for the operation of such child care services shall be designed to enable children, whose families lack adequate financial resources, to participate in before or after school child care programs.

(2) The State, with respect to the uses of funds described in paragraph (1) of this subsection shall—

(A) provide assurances, in the case of an applicant that is not a State or local educational agency, that the applicant has

or will enter into an agreement with the State or local educational agency, institution of higher education or community center containing provisions for—

(i) the use of facilities for the provision of before or after school child care services (including such use during holidays and vacation periods),

(ii) the restrictions, if any, on the use of such space, and

(iii) the times when the space will be available for the use of the applicant;

(B) provide an estimate of the costs of the establishment of the child care service program in the facilities;

(C) provide assurances that the parents of school-age children will be involved in the development and implementation of the program for which assistance is sought under this Act [1];

(D) provide assurances that the applicant is able and willing to seek to enroll racially, ethnically, and economically diverse school-age children, as well as handicapped school-age children, in the child care service program for which assistance is sought under this Act [1];

(E) provide assurances that the child care program is in compliance with State and local child care licensing laws and regulations governing day care services for school-age children to the extent that such regulations are appropriate to the age group served; and

(F) provide such other assurance as the chief executive officer of the State may reasonably require to carry out this Act[1].

(c)(1) Except as provided in paragraph (2), of the allotment to each State in each fiscal year—

(A) 40 percent shall be available for the activities described in subsection (a); and

(B) 60 percent shall be available for the activities described in subsection (b).

(2) For any fiscal year the Secretary may waive the percentage requirements specified in paragraph (1) on the request of a State if such State demonstrates to the satisfaction of the Secretary—

(A) that the amount of funds available as a result of one of such percentage requirements is not needed in such fiscal year for the activities for which such amount is so made available; and

(B) the adequacy of the alternative percentages, relative to need, the State specifies the State will apply with respect to all of the activities referred to in paragraph (1) if such waiver is granted.

(d) A State may not use amounts paid to it under this subchapter to—

(1) make cash payments to intended recipient of dependent care services including child care services;

(2) pay for construction or renovation; or

(3) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

(e)(1) The Federal share of any project supported under this subchapter shall be not more than 75 percent.

[1] So in law. Should strike "Act" and insert "subchapter".

(2) Not more than 10 percent of the allotment of each State under this subchapter may be available for the cost of administration.

(f) Project supported under this section to plan, develop, establish, expand, operate, or improve a State or local resource and referral system or before or after school child care program shall not duplicate any services which are provided before the date of the enactment of this subchapter, by the State or locality which will be served by such system.

(g) The Secretary may provide technical assistance to States in planning and carrying out activities under this subchapter.

(42 U.S.C. 9874)

APPLICATION AND DESCRIPTION OF ACTIVITIES; REQUIREMENTS

SEC. 670E. (a)(1) In order to receive an allotment under section 670B, each State shall submit an application to the Secretary. Each such application shall be in such form and submitted by such date as the Secretary shall require.

(2) Each application required under paragraph (1) for an allotment under section 670B shall contain assurances that the State will meet the requirements of subsection (b).

(b) As part of the annual application required by subsection (a), the chief executive officer of each State shall—

(1) certify that the State agrees to use the funds allotted to it under section 670B in accordance with the requirements of this subchapter; and

(2) certify that the State agrees that Federal funds made available under section 670C for any period will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under that section and will in no event supplant such State, local, and other non-Federal funds.

The Secretary may not prescribe for a State the manner of compliance with the requirements of this subsection.

(c)(1) The chief executive officer of a State shall, as part of the application required by subsection (a), also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a description of the intended use of the payments the State will receive under section 670C, including information on the programs and activities to be supported. The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal. The description shall be revised (consistent with this section) until September 30, 1991,[1] as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this subchapter, and any revision shall be subject to the requirements of the preceding sentence.

(2) The chief executive officer of each State shall include in such a description of—

[1] The amendment made by section 305(b) of Public Law 101–501 attempted to strike "until September 30, 1987" but failed because the amendment made by section 304(b) of that law had already striken "September 30, 1987" and inserted "September 30, 1991".

(A) the number of children who participated in before and after school child care programs assisted under this subchapter;

(B) the characteristics of the children so served including age levels, handicapped condition, income level of families in such programs;

(C) the salary level and benefits paid to employees in such child care programs; and

(D) the number of clients served in resource and referral systems assisted under this subchapter, and the types of assistance they requested.

(d) Except where inconsistent with the provisions of this subchapter, the provisions of section 1903(b), paragraphs (1) through (5) of section 1906(a), and sections 1906(b), 1907, 1908, and 1909 of the Public Health Service Act shall apply to this subchapter in the same manner as such provisions apply to part A of title XIX of such Act.

(42 U.S.C. 9875)

REPORT

SEC. 670F. Within three years after the date of enactment of this subchapter, the Secretary shall prepare and transmit to the Senate Committee on Labor and Human Resources and the House Committee on Education and Labor a report concerning the activities conducted by the States with amounts provided under this subchapter.

(42 U.S.C. 9876)

DEFINITIONS

SEC. 670G. For purposes of this subchapter—

(1) the term "community center" means facilities operated by nonprofit community-based organizations for the provision of recreational, social, or educational services to the general public;

(2) the term "dependent" means—

(A) an individual who has not attained the age of 17 years;

(B) an individual who has attained the age of 55 years; or

(C) an individual with a developmental disability;

(3) the term "developmental disability" has the same meaning as in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000;

(4) the term "equipment" has the same meaning given that term by section 198(a)(8)[1] of the Elementary and Secondary Education Act of 1965;

(5) the term "institution of higher education" has the same meaning given that term under section 101 of the Higher Education Act of 1965;

(6) the term "local educational agency" has the same meaning given that term under section 9101 of the Elementary

[1] So in law. There is no section 198(a)(8) in the Elementary and Secondary Education Act of 1965.

and Secondary Education Act of 1965 of the Elementary and Secondary Education Act of 1965;

(7) the term "school-age children" means children aged five through thirteen, except that in any State in which by State law children at an earlier age are provided free public education, the age provided in State law shall be substituted for age five;

(8) the term "school facilities" means classrooms and related facilities used for the provision of education;

(9) the term "Secretary" means the Secretary of Health and Human Services;

(10) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, Palau, and the Commonwealth of the Northern Mariana Islands; and

(11) the term "State educational agency" has the meaning given that term under section 9101 of the Elementary and Secondary Education Act of 1965.

(42 U.S.C. 9877)

SHORT TITLE

SEC. 670H. This subchapter may be cited as the "State Dependent Care Development Grants Act".

(42 U.S.C. 9801 note)

Subtitle B—Community Services Block Grant Program

SEC. 671. SHORT TITLE.

This subtitle may be cited as the "Community Services Block Grant Act".

(42 U.S.C. 9901 note)

SEC. 672. PURPOSES AND GOALS.

The purposes of this subtitle are—

(1) to provide assistance to States and local communities, working through a network of community action agencies and other neighborhood-based organizations, for the reduction of poverty, the revitalization of low-income communities, and the empowerment of low-income families and individuals in rural and urban areas to become fully self-sufficient (particularly families who are attempting to transition off a State program carried out under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)); and

(2) to accomplish the goals described in paragraph (1) through—

(A) the strengthening of community capabilities for planning and coordinating the use of a broad range of Federal, State, local, and other assistance (including private resources) related to the elimination of poverty, so that this assistance can be used in a manner responsive to local needs and conditions;

(B) the organization of a range of services related to the needs of low-income families and individuals, so that these services may have a measurable and potentially major impact on the causes of poverty in the community and may help the families and individuals to achieve self-sufficiency;

(C) the greater use of innovative and effective community-based approaches to attacking the causes and effects of poverty and of community breakdown;

(D) the maximum participation of residents of the low-income communities and members of the groups served by programs assisted through the block grants made under this subtitle to empower such residents and members to respond to the unique problems and needs within their communities; and

(E) the broadening of the resource base of programs directed to the elimination of poverty so as to secure a more active role in the provision of services for—

(i) private, religious, charitable, and neighborhood-based organizations; and

(ii) individual citizens, and business, labor, and professional groups, who are able to influence the quantity and quality of opportunities and services for the poor.

(42 U.S.C. 9901)

SEC. 673. DEFINITIONS.

In this subtitle:

(1) ELIGIBLE ENTITY; FAMILY LITERACY SERVICES.—

(A) ELIGIBLE ENTITY.—The term "eligible entity" means an entity—

(i) that is an eligible entity described in section 673(1) (as in effect on the day before the date of enactment of the Coats Human Services Reauthorization Act of 1998) as of the day before such date of enactment or is designated by the process described in section 676A (including an organization serving migrant or seasonal farmworkers that is so described or designated); and

(ii) that has a tripartite board or other mechanism described in subsection (a) or (b), as appropriate, of section 676B.

(B) FAMILY LITERACY SERVICES.—The term "family literacy services" has the meaning given the term in section 637 of the Head Start Act (42 U.S.C. 9832).

(2) POVERTY LINE.—The term "poverty line" means the official poverty line defined by the Office of Management and Budget based on the most recent data available from the Bureau of the Census. The Secretary shall revise annually (or at any shorter interval the Secretary determines to be feasible and desirable) the poverty line, which shall be used as a criterion of eligibility in the community services block grant program established under this subtitle. The required revision shall be accomplished by multiplying the official poverty line by the percentage change in the Consumer Price Index for All

Urban Consumers during the annual or other interval immediately preceding the time at which the revision is made. Whenever a State determines that it serves the objectives of the block grant program established under this subtitle, the State may revise the poverty line to not to exceed 125 percent of the official poverty line otherwise applicable under this paragraph.

(3) PRIVATE, NONPROFIT ORGANIZATION.—The term "private, nonprofit organization" includes a religious organization, to which the provisions of section 679 shall apply.

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

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

(42 U.S.C. 9902)

SEC. 674. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 1999 through 2003 to carry out the provisions of this subtitle (other than sections 681 and 682).

(b) RESERVATIONS.—Of the amounts appropriated under subsection (a) for each fiscal year, the Secretary shall reserve—

(1) ½ of 1 percent for carrying out section 675A (relating to payments for territories);

(2) 1½ percent for activities authorized in sections 678A through 678F, of which—

(A) not less than ½ of the amount reserved by the Secretary under this paragraph shall be distributed directly to eligible entities, organizations, or associations described in section 678A(c)(2) for the purpose of carrying out activities described in section 678A(c); and

(B) ½ of the remainder of the amount reserved by the Secretary under this paragraph shall be used by the Secretary to carry out evaluation and to assist States in carrying out corrective action activities and monitoring (to correct programmatic deficiencies of eligible entities), as described in sections 678B(c) and 678A; and

(3) 9 percent for carrying out section 680 (relating to discretionary activities) and section 678E(b)(2).

(42 U.S.C. 9903)

SEC. 675. ESTABLISHMENT OF BLOCK GRANT PROGRAM.

The Secretary is authorized to establish a community services block grant program and make grants through the program to States to ameliorate the causes of poverty in communities within the States.

(42 U.S.C. 9904)

SEC. 675A. DISTRIBUTION TO TERRITORIES.

(a) APPORTIONMENT.—The Secretary shall apportion the amount reserved under section 674(b)(1) for each fiscal year on the basis of need among Guam, American Samoa, the United States

Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(b) APPLICATION.—Each jurisdiction to which subsection (a) applies may receive a grant under this section for the amount apportioned under subsection (a) on submitting to the Secretary, and obtaining approval of, an application, containing provisions that describe the programs for which assistance is sought under this section, that is prepared in accordance with, and contains the information described in, section 676.

(42 U.S.C. 9905)

SEC. 675B. ALLOTMENTS AND PAYMENTS TO STATES.

(a) ALLOTMENTS IN GENERAL.—The Secretary shall, from the amount appropriated under section 674(a) for each fiscal year that remains after the Secretary makes the reservations required in section 674(b), allot to each State (subject to section 677) an amount that bears the same ratio to such remaining amount as the amount received by the State for fiscal year 1981 under section 221 of the Economic Opportunity Act of 1964 bore to the total amount received by all States for fiscal year 1981 under such section, except—

(1) that no State shall receive less than ¼ of 1 percent of the amount appropriated under section 674(a) for such fiscal year; and

(2) as provided in subsection (b).

(b) ALLOTMENTS IN YEARS WITH GREATER AVAILABLE FUNDS.—

(1) MINIMUM ALLOTMENTS.—Subject to paragraphs (2) and (3), if the amount appropriated under section 674(a) for a fiscal year that remains after the Secretary makes the reservations required in section 674(b) exceeds $345,000,000, the Secretary shall allot to each State not less than ½ of 1 percent of the amount appropriated under section 674(a) for such fiscal year.

(2) MAINTENANCE OF FISCAL YEAR 1990 LEVELS.—Paragraph (1) shall not apply with respect to a fiscal year if the amount allotted under subsection (a) to any State for that year is less than the amount allotted under section 674(a)(1) (as in effect on September 30, 1989) to such State for fiscal year 1990.

(3) MAXIMUM ALLOTMENTS.—The amount allotted under paragraph (1) to a State for a fiscal year shall be reduced, if necessary, so that the aggregate amount allotted to such State under such paragraph and subsection (a) does not exceed 140 percent of the aggregate amount allotted to such State under the corresponding provisions of this subtitle for the preceding fiscal year.

(c) PAYMENTS.—The Secretary shall make grants to eligible States for the allotments described in subsections (a) and (b). The Secretary shall make payments for the grants in accordance with section 6503(a) of title 31, United States Code.

(d) DEFINITION.—In this section, the term "State" does not include Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(42 U.S.C. 9906)

SEC. 675C. USES OF FUNDS.

(a) GRANTS TO ELIGIBLE ENTITIES AND OTHER ORGANIZATIONS.—

(1) IN GENERAL.—Not less than 90 percent of the funds made available to a State under section 675A or 675B shall be used by the State to make grants for the purposes described in section 672 to eligible entities.

(2) OBLIGATIONAL AUTHORITY.—Funds distributed to eligible entities through grants made in accordance with paragraph (1) for a fiscal year shall be available for obligation during that fiscal year and the succeeding fiscal year, subject to paragraph (3).

(3) RECAPTURE AND REDISTRIBUTION OF UNOBLIGATED FUNDS.—

(A) AMOUNT.—Beginning on October 1, 2000, a State may recapture and redistribute funds distributed to an eligible entity through a grant made under paragraph (1) that are unobligated at the end of a fiscal year if such unobligated funds exceed 20 percent of the amount so distributed to such eligible entity for such fiscal year.

(B) REDISTRIBUTION.—In redistributing funds recaptured in accordance with this paragraph, States shall redistribute such funds to an eligible entity, or require the original recipient of the funds to redistribute the funds to a private, nonprofit organization, located within the community served by the original recipient of the funds, for activities consistent with the purposes of this subtitle.

(b) STATEWIDE ACTIVITIES.—

(1) USE OF REMAINDER.—If a State uses less than 100 percent of the grant or allotment received under section 675A or 675B to make grants under subsection (a), the State shall use the remainder of the grant or allotment under section 675A or 675B (subject to paragraph (2)) for activities that may include—

(A) providing training and technical assistance to those entities in need of such training and assistance;

(B) coordinating State-operated programs and services, and at the option of the State, locally-operated programs and services, targeted to low-income children and families with services provided by eligible entities and other organizations funded under this subtitle, including detailing appropriate employees of State or local agencies to entities funded under this subtitle, to ensure increased access to services provided by such State or local agencies;

(C) supporting statewide coordination and communication among eligible entities;

(D) analyzing the distribution of funds made available under this subtitle within the State to determine if such funds have been targeted to the areas of greatest need;

(E) supporting asset-building programs for low-income individuals, such as programs supporting individual development accounts;

(F) supporting innovative programs and activities conducted by community action agencies or other neighborhood-based organizations to eliminate poverty, promote self-sufficiency, and promote community revitalization;

(G) supporting State charity tax credits as described in subsection (c); and

(H) supporting other activities, consistent with the purposes of this subtitle.

(2) ADMINISTRATIVE CAP.—No State may spend more than the greater of $55,000, or 5 percent, of the grant received under section 675A or State allotment received under section 675B for administrative expenses, including monitoring activities. Funds to be spent for such expenses shall be taken from the portion of the grant under section 675A or State allotment that remains after the State makes grants to eligible entities under subsection (a). The cost of activities conducted under paragraph (1)(A) shall not be considered to be administrative expenses. The startup cost and cost of administrative activities conducted under subsection (c) shall be considered to be administrative expenses.

(c) CHARITY TAX CREDIT.—

(1) IN GENERAL.—Subject to paragraph (2), if there is in effect under State law a charity tax credit, the State may use for any purpose the amount of the allotment that is available for expenditure under subsection (b).

(2) LIMIT.—The aggregate amount a State may use under paragraph (1) during a fiscal year shall not exceed 100 percent of the revenue loss of the State during the fiscal year that is attributable to the charity tax credit, as determined by the Secretary of the Treasury without regard to any such revenue loss occurring before January 1, 1999.

(3) DEFINITIONS AND RULES.—In this subsection:

(A) CHARITY TAX CREDIT.—The term "charity tax credit" means a nonrefundable credit against State income tax (or, in the case of a State that does not impose an income tax, a comparable benefit) that is allowable for contributions, in cash or in kind, to qualified charities.

(B) QUALIFIED CHARITY.—

(i) IN GENERAL.—The term "qualified charity" means any organization—

(I) that is—

(aa) described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

(bb) an eligible entity; or

(cc) a public housing agency as defined in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6));

(II) that is certified by the appropriate State authority as meeting the requirements of clauses (iii) and (iv); and

(III) if such organization is otherwise required to file a return under section 6033 of such Code, that elects to treat the information required to be furnished by clause (v) as being specified in section 6033(b) of such Code.

(ii) CERTAIN CONTRIBUTIONS TO COLLECTION ORGANIZATIONS TREATED AS CONTRIBUTIONS TO QUALIFIED CHARITY.—

(I) IN GENERAL.—A contribution to a collection organization shall be treated as a contribution to

a qualified charity if the donor designates in writing that the contribution is for the qualified charity.

(II) COLLECTION ORGANIZATION.—The term "collection organization" means an organization described in section 501(c)(3) of such Code and exempt from tax under section 501(a) of such Code—

(aa) that solicits and collects gifts and grants that, by agreement, are distributed to qualified charities;

(bb) that distributes to qualified charities at least 90 percent of the gifts and grants the organization receives that are designated for such qualified charities; and

(cc) that meets the requirements of clause (vi).

(iii) CHARITY MUST PRIMARILY ASSIST POOR INDIVIDUALS.—

(I) IN GENERAL.—An organization meets the requirements of this clause only if the appropriate State authority reasonably expects that the predominant activity of such organization will be the provision of direct services within the United States to individuals and families whose annual incomes generally do not exceed 185 percent of the poverty line in order to prevent or alleviate poverty among such individuals and families.

(II) NO RECORDKEEPING IN CERTAIN CASES.—An organization shall not be required to establish or maintain records with respect to the incomes of individuals and families for purposes of subclause (I) if such individuals or families are members of groups that are generally recognized as including substantially only individuals and families described in subclause (I).

(III) FOOD AID AND HOMELESS SHELTERS.—Except as otherwise provided by the appropriate State authority, for purposes of subclause (I), services to individuals in the form of—

(aa) donations of food or meals; or

(bb) temporary shelter to homeless individuals;

shall be treated as provided to individuals described in subclause (I) if the location and provision of such services are such that the service provider may reasonably conclude that the beneficiaries of such services are predominantly individuals described in subclause (I).

(iv) MINIMUM EXPENSE REQUIREMENT.—

(I) IN GENERAL.—An organization meets the requirements of this clause only if the appropriate State authority reasonably expects that the annual poverty program expenses of such organization will not be less than 75 percent of the annual aggregate expenses of such organization.

(II) POVERTY PROGRAM EXPENSE.—For purposes of subclause (I)—

(aa) IN GENERAL.—The term "poverty program expense" means any expense in providing direct services referred to in clause (iii).

(bb) EXCEPTIONS.—Such term shall not include any management or general expense, any expense for the purpose of influencing legislation (as defined in section 4911(d) of the Internal Revenue Code of 1986), any expense for the purpose of fundraising, any expense for a legal service provided on behalf of any individual referred to in clause (iii), any expense for providing tuition assistance relating to compulsory school attendance, and any expense that consists of a payment to an affiliate of the organization.

(v) REPORTING REQUIREMENT.—The information required to be furnished under this clause about an organization is—

(I) the percentages determined by dividing the following categories of the organization's expenses for the year by the total expenses of the organization for the year: expenses for direct services, management expenses, general expenses, fundraising expenses, and payments to affiliates; and

(II) the category or categories (including food, shelter, education, substance abuse prevention or treatment, job training, or other) of services that constitute predominant activities of the organization.

(vi) ADDITIONAL REQUIREMENTS FOR COLLECTION ORGANIZATIONS.—The requirements of this clause are met if the organization—

(I) maintains separate accounting for revenues and expenses; and

(II) makes available to the public information on the administrative and fundraising costs of the organization, and information as to the organizations receiving funds from the organization and the amount of such funds.

(vii) SPECIAL RULE FOR STATES REQUIRING TAX UNIFORMITY.—In the case of a State—

(I) that has a constitutional requirement of tax uniformity; and

(II) that, as of December 31, 1997, imposed a tax on personal income with—

(aa) a single flat rate applicable to all earned and unearned income (except insofar as any amount is not taxed pursuant to tax forgiveness provisions); and

(bb) no generally available exemptions or deductions to individuals;

the requirement of paragraph (2) shall be treated as met if the amount of the credit described in paragraph (2) is limited to a uniform percentage (but not greater than 25 percent) of State personal income tax liability (determined without regard to credits).

(4) LIMITATION ON USE OF FUNDS FOR STARTUP AND ADMINISTRATIVE ACTIVITIES.—Except to the extent provided in subsection (b)(2), no part of the aggregate amount a State uses under paragraph (1) may be used to pay for the cost of the startup and administrative activities conducted under this subsection.

(5) PROHIBITION ON USE OF FUNDS FOR LEGAL SERVICES OR TUITION ASSISTANCE.—No part of the aggregate amount a State uses under paragraph (1) may be used to provide legal services or to provide tuition assistance related to compulsory education requirements (not including tuition assistance for tutoring, camps, skills development, or other supplemental services or training).

(6) PROHIBITION ON SUPPLANTING FUNDS.—No part of the aggregate amount a State uses under paragraph (1) may be used to supplant non-Federal funds that would be available, in the absence of Federal funds, to offset a revenue loss of the State attributable to a charity tax credit.

(42 U.S.C. 9907)

SEC. 676. APPLICATION AND PLAN.

(a) DESIGNATION OF LEAD AGENCY.—

(1) DESIGNATION.—The chief executive officer of a State desiring to receive a grant or allotment under section 675A or 675B shall designate, in an application submitted to the Secretary under subsection (b), an appropriate State agency that complies with the requirements of paragraph (2) to act as a lead agency for purposes of carrying out State activities under this subtitle.

(2) DUTIES.—The lead agency shall—

(A) develop the State plan to be submitted to the Secretary under subsection (b);

(B) in conjunction with the development of the State plan as required under subsection (b), hold at least one hearing in the State with sufficient time and statewide distribution of notice of such hearing, to provide to the public an opportunity to comment on the proposed use and distribution of funds to be provided through the grant or allotment under section 675A or 675B for the period covered by the State plan; and

(C) conduct reviews of eligible entities under section 678B.

(3) LEGISLATIVE HEARING.—In order to be eligible to receive a grant or allotment under section 675A or 675B, the State shall hold at least one legislative hearing every 3 years in conjunction with the development of the State plan.

(b) STATE APPLICATION AND PLAN.—Beginning with fiscal year 2000, to be eligible to receive a grant or allotment under section 675A or 675B, a State shall prepare and submit to the Secretary an application and State plan covering a period of not less than 1

fiscal year and not more than 2 fiscal years. The plan shall be submitted not later than 30 days prior to the beginning of the first fiscal year covered by the plan, and shall contain such information as the Secretary shall require, including—

(1) an assurance that funds made available through the grant or allotment will be used—

(A) to support activities that are designed to assist low-income families and individuals, including families and individuals receiving assistance under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), homeless families and individuals, migrant or seasonal farmworkers, and elderly low-income individuals and families, and a description of how such activities will enable the families and individuals—

(i) to remove obstacles and solve problems that block the achievement of self-sufficiency (including self-sufficiency for families and individuals who are attempting to transition off a State program carried out under part A of title IV of the Social Security Act);

(ii) to secure and retain meaningful employment;

(iii) to attain an adequate education, with particular attention toward improving literacy skills of the low-income families in the communities involved, which may include carrying out family literacy initiatives;

(iv) to make better use of available income;

(v) to obtain and maintain adequate housing and a suitable living environment;

(vi) to obtain emergency assistance through loans, grants, or other means to meet immediate and urgent family and individual needs; and

(vii) to achieve greater participation in the affairs of the communities involved, including the development of public and private grassroots partnerships with local law enforcement agencies, local housing authorities, private foundations, and other public and private partners to—

(I) document best practices based on successful grassroots intervention in urban areas, to develop methodologies for widespread replication; and

(II) strengthen and improve relationships with local law enforcement agencies, which may include participation in activities such as neighborhood or community policing efforts;

(B) to address the needs of youth in low-income communities through youth development programs that support the primary role of the family, give priority to the prevention of youth problems and crime, and promote increased community coordination and collaboration in meeting the needs of youth, and support development and expansion of innovative community-based youth development programs that have demonstrated success in preventing or reducing youth crime, such as—

(i) programs for the establishment of violence-free zones that would involve youth development and intervention models (such as models involving youth mediation, youth mentoring, life skills training, job creation, and entrepreneurship programs); and

(ii) after-school child care programs; and

(C) to make more effective use of, and to coordinate with, other programs related to the purposes of this subtitle (including State welfare reform efforts);

(2) a description of how the State intends to use discretionary funds made available from the remainder of the grant or allotment described in section 675C(b) in accordance with this subtitle, including a description of how the State will support innovative community and neighborhood-based initiatives related to the purposes of this subtitle;

(3) information provided by eligible entities in the State, containing—

(A) a description of the service delivery system, for services provided or coordinated with funds made available through grants made under section 675C(a), targeted to low-income individuals and families in communities within the State;

(B) a description of how linkages will be developed to fill identified gaps in the services, through the provision of information, referrals, case management, and followup consultations;

(C) a description of how funds made available through grants made under section 675C(a) will be coordinated with other public and private resources; and

(D) a description of how the local entity will use the funds to support innovative community and neighborhood-based initiatives related to the purposes of this subtitle, which may include fatherhood initiatives and other initiatives with the goal of strengthening families and encouraging effective parenting;

(4) an assurance that eligible entities in the State will provide, on an emergency basis, for the provision of such supplies and services, nutritious foods, and related services, as may be necessary to counteract conditions of starvation and malnutrition among low-income individuals;

(5) an assurance that the State and the eligible entities in the State will coordinate, and establish linkages between, governmental and other social services programs to assure the effective delivery of such services to low-income individuals and to avoid duplication of such services, and a description of how the State and the eligible entities will coordinate the provision of employment and training activities, as defined in section 101 of such Act, in the State and in communities with entities providing activities through statewide and local workforce investment systems under the Workforce Investment Act of 1998;

(6) an assurance that the State will ensure coordination between antipoverty programs in each community in the State, and ensure, where appropriate, that emergency energy crisis intervention programs under title XXVI (relating to low-income home energy assistance) are conducted in such community;

(7) an assurance that the State will permit and cooperate with Federal investigations undertaken in accordance with section 678D;

(8) an assurance that any eligible entity in the State that received funding in the previous fiscal year through a community services block grant made under this subtitle will not have its funding terminated under this subtitle, or reduced below the proportional share of funding the entity received in the previous fiscal year unless, after providing notice and an opportunity for a hearing on the record, the State determines that cause exists for such termination or such reduction, subject to review by the Secretary as provided in section 678C(b);

(9) an assurance that the State and eligible entities in the State will, to the maximum extent possible, coordinate programs with and form partnerships with other organizations serving low-income residents of the communities and members of the groups served by the State, including religious organizations, charitable groups, and community organizations;

(10) an assurance that the State will require each eligible entity in the State to establish procedures under which a low-income individual, community organization, or religious organization, or representative of low-income individuals that considers its organization, or low-income individuals, to be inadequately represented on the board (or other mechanism) of the eligible entity to petition for adequate representation;

(11) an assurance that the State will secure from each eligible entity in the State, as a condition to receipt of funding by the entity through a community services block grant made under this subtitle for a program, a community action plan (which shall be submitted to the Secretary, at the request of the Secretary, with the State plan) that includes a community-needs assessment for the community served, which may be coordinated with community-needs assessments conducted for other programs;

(12) an assurance that the State and all eligible entities in the State will, not later than fiscal year 2001, participate in the Results Oriented Management and Accountability System, another performance measure system for which the Secretary facilitated development pursuant to section 678E(b), or an alternative system for measuring performance and results that meets the requirements of that section, and a description of outcome measures to be used to measure eligible entity performance in promoting self-sufficiency, family stability, and community revitalization; and

(13) information describing how the State will carry out the assurances described in this subsection.

(c) FUNDING TERMINATION OR REDUCTIONS.—For purposes of making a determination in accordance with subsection (b)(8) with respect to—

(1) a funding reduction, the term "cause" includes—

(A) a statewide redistribution of funds provided through a community services block grant under this subtitle to respond to—

(i) the results of the most recently available census or other appropriate data;

(ii) the designation of a new eligible entity; or

(iii) severe economic dislocation; or

(B) the failure of an eligible entity to comply with the terms of an agreement or a State plan, or to meet a State requirement, as described in section 678C(a); and

(2) a termination, the term "cause" includes the failure of an eligible entity to comply with the terms of an agreement or a State plan, or to meet a State requirement, as described in section 678C(a).

(d) PROCEDURES AND INFORMATION.—The Secretary may prescribe procedures for the purpose of assessing the effectiveness of eligible entities in carrying out the purposes of this subtitle.

(e) REVISIONS AND INSPECTION.—

(1) REVISIONS.—The chief executive officer of each State may revise any plan prepared under this section and shall submit the revised plan to the Secretary.

(2) PUBLIC INSPECTION.—Each plan or revised plan prepared under this section shall be made available for public inspection within the State in such a manner as will facilitate review of, and comment on, the plan.

(f) TRANSITION.—For fiscal year 2000, to be eligible to receive a grant or allotment under section 675A or 675B, a State shall prepare and submit to the Secretary an application and State plan in accordance with the provisions of this subtitle (as in effect on the day before the date of enactment of the Coats Human Services Reauthorization Act of 1998), rather than the provisions of subsections (a) through (c) relating to applications and plans.

(42 U.S.C. 9908)

SEC. 676A. DESIGNATION AND REDESIGNATION OF ELIGIBLE ENTITIES IN UNSERVED AREAS.

(a) QUALIFIED ORGANIZATION IN OR NEAR AREA.—

(1) IN GENERAL.—If any geographic area of a State is not, or ceases to be, served by an eligible entity under this subtitle, and if the chief executive officer of the State decides to serve such area, the chief executive officer may solicit applications from, and designate as an eligible entity—

(A) a private nonprofit organization (which may include an eligible entity) that is geographically located in the unserved area, that is capable of providing a broad range of services designed to eliminate poverty and foster self-sufficiency, and that meets the requirements of this subtitle; and

(B) a private nonprofit eligible entity that is geographically located in an area contiguous to or within reasonable proximity of the unserved area and that is already providing related services in the unserved area.

(2) REQUIREMENT.—In order to serve as the eligible entity for the area, an entity described in paragraph (1)(B) shall agree to add additional members to the board of the entity to ensure adequate representation—

(A) in each of the three required categories described in subparagraphs (A), (B), and (C) of section 676B(a)(2), by members that reside in the community comprised by the unserved area; and

(B) in the category described in section 676B(a)(2)(B), by members that reside in the neighborhood to be served.

(b) SPECIAL CONSIDERATION.—In designating an eligible entity under subsection (a), the chief executive officer shall grant the designation to an organization of demonstrated effectiveness in meeting the goals and purposes of this subtitle and may give priority, in granting the designation, to eligible entities that are providing related services in the unserved area, consistent with the needs identified by a community-needs assessment.

(c) NO QUALIFIED ORGANIZATION IN OR NEAR AREA.—If no private, nonprofit organization is identified or determined to be qualified under subsection (a) to serve the unserved area as an eligible entity the chief executive officer may designate an appropriate political subdivision of the State to serve as an eligible entity for the area. In order to serve as the eligible entity for that area, the political subdivision shall have a board or other mechanism as required in section 676B(b).

(42 U.S.C. 9909)

SEC. 676B. TRIPARTITE BOARDS.

(a) PRIVATE NONPROFIT ENTITIES.—

(1) BOARD.—In order for a private, nonprofit entity to be considered to be an eligible entity for purposes of section 673(1), the entity shall administer the community services block grant program through a tripartite board described in paragraph (2) that fully participates in the development, planning, implementation, and evaluation of the program to serve low-income communities.

(2) SELECTION AND COMPOSITION OF BOARD.—The members of the board referred to in paragraph (1) shall be selected by the entity and the board shall be composed so as to assure that—

(A) ⅓ of the members of the board are elected public officials, holding office on the date of selection, or their representatives, except that if the number of such elected officials reasonably available and willing to serve on the board is less than ⅓ of the membership of the board, membership on the board of appointive public officials or their representatives may be counted in meeting such ⅓ requirement;

(B)(i) not fewer than ⅓ of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members are representative of low-income individuals and families in the neighborhood served; and

(ii) each representative of low-income individuals and families selected to represent a specific neighborhood within a community under clause (i) resides in the neighborhood represented by the member; and

(C) the remainder of the members are officials or members of business, industry, labor, religious, law enforcement, education, or other major groups and interests in the community served.

(b) PUBLIC ORGANIZATIONS.—In order for a public organization to be considered to be an eligible entity for purposes of section

673(1), the entity shall administer the community services block grant program through—

(1) a tripartite board, which shall have members selected by the organization and shall be composed so as to assure that not fewer than ⅓ of the members are persons chosen in accordance with democratic selection procedures adequate to assure that these members—

(A) are representative of low-income individuals and families in the neighborhood served;

(B) reside in the neighborhood served; and

(C) are able to participate actively in the development, planning, implementation, and evaluation of programs funded under this subtitle; or

(2) another mechanism specified by the State to assure decisionmaking and participation by low-income individuals in the development, planning, implementation, and evaluation of programs funded under this subtitle.

(42 U.S.C. 9910)

SEC. 677. PAYMENTS TO INDIAN TRIBES.

(a) RESERVATION.—If, with respect to any State, the Secretary—

(1) receives a request from the governing body of an Indian tribe or tribal organization within the State that assistance under this subtitle be made directly to such tribe or organization; and

(2) determines that the members of such tribe or tribal organization would be better served by means of grants made directly to provide benefits under this subtitle,

the Secretary shall reserve from amounts that would otherwise be allotted to such State under section 675B for the fiscal year the amount determined under subsection (b).

(b) DETERMINATION OF RESERVED AMOUNT.—The Secretary shall reserve for the purpose of subsection (a) from amounts that would otherwise be allotted to such State, not less than 100 percent of an amount that bears the same ratio to the State allotment for the fiscal year involved as the population of all eligible Indians for whom a determination has been made under subsection (a) bears to the population of all individuals eligible for assistance through a community services block grant made under this subtitle in such State.

(c) AWARDS.—The sums reserved by the Secretary on the basis of a determination made under subsection (a) shall be made available by grant to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

(d) PLAN.—In order for an Indian tribe or tribal organization to be eligible for a grant award for a fiscal year under this section, the tribe or organization shall submit to the Secretary a plan for such fiscal year that meets such criteria as the Secretary may prescribe by regulation.

(e) DEFINITIONS.—In this section:

(1) INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms "Indian tribe" and "tribal organization" mean a tribe, band, or other organized group recognized in the State in which the tribe, band, or group resides, or considered by the Secretary of

the Interior, to be an Indian tribe or an Indian organization for any purpose.

(2) INDIAN.—The term "Indian" means a member of an Indian tribe or of a tribal organization.

(42 U.S.C. 9911)

SEC. 678. OFFICE OF COMMUNITY SERVICES.

(a) OFFICE.—The Secretary shall carry out the functions of this subtitle through an Office of Community Services, which shall be established in the Department of Health and Human Services. The Office shall be headed by a Director.

(b) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—The Secretary shall carry out functions of this subtitle through grants, contracts, or cooperative agreements.

(42 U.S.C. 9912)

SEC. 678A. TRAINING, TECHNICAL ASSISTANCE, AND OTHER ACTIVITIES.

(a) ACTIVITIES.—

(1) IN GENERAL.—The Secretary shall use amounts reserved in section 674(b)(2)—

(A) for training, technical assistance, planning, evaluation, and performance measurement, to assist States in carrying out corrective action activities and monitoring (to correct programmatic deficiencies of eligible entities), and for reporting and data collection activities, related to programs carried out under this subtitle; and

(B) to distribute amounts in accordance with subsection (c).

(2) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—The activities described in paragraph (1)(A) may be carried out by the Secretary through grants, contracts, or cooperative agreements with appropriate entities.

(b) TERMS AND TECHNICAL ASSISTANCE PROCESS.—The process for determining the training and technical assistance to be carried out under this section shall—

(1) ensure that the needs of eligible entities and programs relating to improving program quality (including quality of financial management practices) are addressed to the maximum extent feasible; and

(2) incorporate mechanisms to ensure responsiveness to local needs, including an ongoing procedure for obtaining input from the national and State networks of eligible entities.

(c) DISTRIBUTION REQUIREMENT.—

(1) IN GENERAL.—The amounts reserved under section 674(b)(2)(A) for activities to be carried out under this subsection shall be distributed directly to eligible entities, organizations, or associations described in paragraph (2) for the purpose of improving program quality (including quality of financial management practices), management information and reporting systems, and measurement of program results, and for the purpose of ensuring responsiveness to identified local needs.

(2) ELIGIBLE ENTITIES, ORGANIZATIONS, OR ASSOCIATIONS.—Eligible entities, organizations, or associations described in this paragraph shall be eligible entities, or statewide or local orga-

nizations or associations, with demonstrated expertise in providing training to individuals and organizations on methods of effectively addressing the needs of low-income families and communities.

(42 U.S.C. 9913)

SEC. 678B. MONITORING OF ELIGIBLE ENTITIES.

(a) IN GENERAL.—In order to determine whether eligible entities meet the performance goals, administrative standards, financial management requirements, and other requirements of a State, the State shall conduct the following reviews of eligible entities:

(1) A full onsite review of each such entity at least once during each 3-year period.

(2) An onsite review of each newly designated entity immediately after the completion of the first year in which such entity receives funds through the community services block grant program.

(3) Followup reviews including prompt return visits to eligible entities, and their programs, that fail to meet the goals, standards, and requirements established by the State.

(4) Other reviews as appropriate, including reviews of entities with programs that have had other Federal, State, or local grants (other than assistance provided under this subtitle) terminated for cause.

(b) REQUESTS.—The State may request training and technical assistance from the Secretary as needed to comply with the requirements of this section.

(c) EVALUATIONS BY THE SECRETARY.—The Secretary shall conduct in several States in each fiscal year evaluations (including investigations) of the use of funds received by the States under this subtitle in order to evaluate compliance with the provisions of this subtitle, and especially with respect to compliance with section 676(b). The Secretary shall submit, to each State evaluated, a report containing the results of such evaluations, and recommendations of improvements designed to enhance the benefit and impact of the activities carried out with such funds for people in need. On receiving the report, the State shall submit to the Secretary a plan of action in response to the recommendations contained in the report. The results of the evaluations shall be submitted annually to the Chairperson of the Committee on Education and the Workforce of the House of Representatives and the Chairperson of the Committee on Labor and Human Resources of the Senate as part of the report submitted by the Secretary in accordance with section 678E(b)(2).

(42 U.S.C. 9914)

SEC. 678C. CORRECTIVE ACTION; TERMINATION AND REDUCTION OF FUNDING.

(a) DETERMINATION.—If the State determines, on the basis of a final decision in a review pursuant to section 678B, that an eligible entity fails to comply with the terms of an agreement, or the State plan, to provide services under this subtitle or to meet appropriate standards, goals, and other requirements established by the State (including performance objectives), the State shall—

(1) inform the entity of the deficiency to be corrected;

(2) require the entity to correct the deficiency;

(3)(A) offer training and technical assistance, if appropriate, to help correct the deficiency, and prepare and submit to the Secretary a report describing the training and technical assistance offered; or

(B) if the State determines that such training and technical assistance are not appropriate, prepare and submit to the Secretary a report stating the reasons for the determination;

(4)(A) at the discretion of the State (taking into account the seriousness of the deficiency and the time reasonably required to correct the deficiency), allow the entity to develop and implement, within 60 days after being informed of the deficiency, a quality improvement plan to correct such deficiency within a reasonable period of time, as determined by the State; and

(B) not later than 30 days after receiving from an eligible entity a proposed quality improvement plan pursuant to subparagraph (A), either approve such proposed plan or specify the reasons why the proposed plan cannot be approved; and

(5) after providing adequate notice and an opportunity for a hearing, initiate proceedings to terminate the designation of or reduce the funding under this subtitle of the eligible entity unless the entity corrects the deficiency.

(b) REVIEW.—A determination to terminate the designation or reduce the funding of an eligible entity is reviewable by the Secretary. The Secretary shall, upon request, review such a determination. The review shall be completed not later than 90 days after the Secretary receives from the State all necessary documentation relating to the determination to terminate the designation or reduce the funding. If the review is not completed within 90 days, the determination of the State shall become final at the end of the 90th day.

(c) DIRECT ASSISTANCE.—Whenever a State violates the assurances contained in section 676(b)(8) and terminates or reduces the funding of an eligible entity prior to the completion of the State hearing described in that section and the Secretary's review as required in subsection (b), the Secretary is authorized to provide financial assistance under this subtitle to the eligible entity affected until the violation is corrected. In such a case, the grant or allotment for the State under section 675A or 675B for the earliest appropriate fiscal year shall be reduced by an amount equal to the funds provided under this subsection to such eligible entity.

(42 U.S.C. 9915)

SEC. 678D. FISCAL CONTROLS, AUDITS, AND WITHHOLDING.

(a) FISCAL CONTROLS, PROCEDURES, AUDITS, AND INSPECTIONS.—

(1) IN GENERAL.—A State that receives funds under this subtitle shall—

(A) establish fiscal control and fund accounting procedures necessary to assure the proper disbursal of and accounting for Federal funds paid to the State under this subtitle, including procedures for monitoring the funds provided under this subtitle;

(B) ensure that cost and accounting standards of the Office of Management and Budget apply to a recipient of the funds under this subtitle;

(C) subject to paragraph (2), prepare, at least every year, an audit of the expenditures of the State of amounts received under this subtitle and amounts transferred to carry out the purposes of this subtitle; and

(D) make appropriate books, documents, papers, and records available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request for the items.

(2) AUDITS.—

(A) IN GENERAL.—Subject to subparagraph (B), each audit required by subsection (a)(1)(C) shall be conducted by an entity independent of any agency administering activities or services carried out under this subtitle and shall be conducted in accordance with generally accepted accounting principles.

(B) SINGLE AUDIT REQUIREMENTS.—Audits shall be conducted under this paragraph in the manner and to the extent provided in chapter 75 of title 31, United States Code (commonly known as the "Single Audit Act Amendments of 1996").

(C) SUBMISSION OF COPIES.—Within 30 days after the completion of each such audit in a State, the chief executive officer of the State shall submit a copy of such audit to any eligible entity that was the subject of the audit at no charge, to the legislature of the State, and to the Secretary.

(3) REPAYMENTS.—The State shall repay to the United States amounts found not to have been expended in accordance with this subtitle or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subtitle.

(b) WITHHOLDING.—

(1) IN GENERAL.—The Secretary shall, after providing adequate notice and an opportunity for a hearing conducted within the affected State, withhold funds from any State that does not utilize the grant or allotment under section 675A or 675B in accordance with the provisions of this subtitle, including the assurances such State provided under section 676.

(2) RESPONSE TO COMPLAINTS.—The Secretary shall respond in an expeditious and speedy manner to complaints of a substantial or serious nature that a State has failed to use funds in accordance with the provisions of this subtitle, including the assurances provided by the State under section 676. For purposes of this paragraph, a complaint of a failure to meet any one of the assurances provided under section 676 that constitutes disregarding that assurance shall be considered to be a complaint of a serious nature.

(3) INVESTIGATIONS.—Whenever the Secretary determines that there is a pattern of complaints of failures described in paragraph (2) from any State in any fiscal year, the Secretary

shall conduct an investigation of the use of funds received under this subtitle by such State in order to ensure compliance with the provisions of this subtitle.

(42 U.S.C. 9916)

SEC. 678E. ACCOUNTABILITY AND REPORTING REQUIREMENTS.

(a) STATE ACCOUNTABILITY AND REPORTING REQUIREMENTS.—

(1) PERFORMANCE MEASUREMENT.—

(A) IN GENERAL.—By October 1, 2001, each State that receives funds under this subtitle shall participate, and shall ensure that all eligible entities in the State participate, in a performance measurement system, which may be a performance measurement system for which the Secretary facilitated development pursuant to subsection (b), or an alternative system that the Secretary is satisfied meets the requirements of subsection (b).

(B) LOCAL AGENCIES.—The State may elect to have local agencies that are subcontractors of the eligible entities under this subtitle participate in the performance measurement system. If the State makes that election, references in this section to eligible entities shall be considered to include the local agencies.

(2) ANNUAL REPORT.—Each State shall annually prepare and submit to the Secretary a report on the measured performance of the State and the eligible entities in the State. Prior to the participation of the State in the performance measurement system, the State shall include in the report any information collected by the State relating to such performance. Each State shall also include in the report an accounting of the expenditure of funds received by the State through the community services block grant program, including an accounting of funds spent on administrative costs by the State and the eligible entities, and funds spent by eligible entities on the direct delivery of local services, and shall include information on the number of and characteristics of clients served under this subtitle in the State, based on data collected from the eligible entities. The State shall also include in the report a summary describing the training and technical assistance offered by the State under section 678C(a)(3) during the year covered by the report.

(b) SECRETARY'S ACCOUNTABILITY AND REPORTING REQUIREMENTS.—

(1) PERFORMANCE MEASUREMENT.—The Secretary, in collaboration with the States and with eligible entities throughout the Nation, shall facilitate the development of one or more model performance measurement systems, which may be used by the States and by eligible entities to measure their performance in carrying out the requirements of this subtitle and in achieving the goals of their community action plans. The Secretary shall provide technical assistance, including support for the enhancement of electronic data systems, to States and to eligible entities to enhance their capability to collect and report data for such a system and to aid in their participation in such a system.

(2) REPORTING REQUIREMENTS.—At the end of each fiscal year beginning after September 30, 1999, the Secretary shall, directly or by grant or contract, prepare a report containing—

(A) a summary of the planned use of funds by each State, and the eligible entities in the State, under the community services block grant program, as contained in each State plan submitted pursuant to section 676;

(B) a description of how funds were actually spent by the State and eligible entities in the State, including a breakdown of funds spent on administrative costs and on the direct delivery of local services by eligible entities;

(C) information on the number of entities eligible for funds under this subtitle, the number of low-income persons served under this subtitle, and such demographic data on the low-income populations served by eligible entities as is determined by the Secretary to be feasible;

(D) a comparison of the planned uses of funds for each State and the actual uses of the funds;

(E) a summary of each State's performance results, and the results for the eligible entities, as collected and submitted by the States in accordance with subsection (a)(2); and

(F) any additional information that the Secretary considers to be appropriate to carry out this subtitle, if the Secretary informs the States of the need for such additional information and allows a reasonable period of time for the States to collect and provide the information.

(3) SUBMISSION.—The Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate the report described in paragraph (2), and any comments the Secretary may have with respect to such report. The report shall include definitions of direct and administrative costs used by the Department of Health and Human Services for programs funded under this subtitle.

(4) COSTS.—Of the funds reserved under section 674(b)(3), not more than $350,000 shall be available to carry out the reporting requirements contained in paragraph (2).

(42 U.S.C. 9917)

SEC. 678F. LIMITATIONS ON USE OF FUNDS.

(a) CONSTRUCTION OF FACILITIES.—

(1) LIMITATIONS.—Except as provided in paragraph (2), grants made under this subtitle (other than amounts reserved under section 674(b)(3)) may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this subtitle, for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or other facility.

(2) WAIVER.—The Secretary may waive the limitation contained in paragraph (1) upon a State request for such a waiver, if the Secretary finds that the request describes extraordinary circumstances to justify the purchase of land or the construc-

tion of facilities (or the making of permanent improvements) and that permitting the waiver will contribute to the ability of the State to carry out the purposes of this subtitle.

(b) POLITICAL ACTIVITIES.—

(1) TREATMENT AS A STATE OR LOCAL AGENCY.—For purposes of chapter 15 of title 5, United States Code, any entity that assumes responsibility for planning, developing, and coordinating activities under this subtitle and receives assistance under this subtitle shall be deemed to be a State or local agency. For purposes of paragraphs (1) and (2) of section 1502(a) of such title, any entity receiving assistance under this subtitle shall be deemed to be a State or local agency.

(2) PROHIBITIONS.—Programs assisted under this subtitle shall not be carried on in a manner involving the use of program funds, the provision of services, or the employment or assignment of personnel, in a manner supporting or resulting in the identification of such programs with—

(A) any partisan or nonpartisan political activity or any political activity associated with a candidate, or contending faction or group, in an election for public or party office;

(B) any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or

(C) any voter registration activity.

(3) RULES AND REGULATIONS.—The Secretary, after consultation with the Office of Personnel Management, shall issue rules and regulations to provide for the enforcement of this subsection, which shall include provisions for summary suspension of assistance or other action necessary to permit enforcement on an emergency basis.

(c) NONDISCRIMINATION.—

(1) IN GENERAL.—No person shall, on the basis of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subtitle. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified individual with a disability as provided in section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.) shall also apply to any such program or activity.

(2) ACTION OF SECRETARY.—Whenever the Secretary determines that a State that has received a payment under this subtitle has failed to comply with paragraph (1) or an applicable regulation, the Secretary shall notify the chief executive officer of the State and shall request that the officer secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to—

(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(B) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.), as may be applicable; or

(C) take such other action as may be provided by law.

(3) ACTION OF ATTORNEY GENERAL.—When a matter is referred to the Attorney General pursuant to paragraph (2), or whenever the Attorney General has reason to believe that the State is engaged in a pattern or practice of discrimination in violation of the provisions of this subsection, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(42 U.S.C. 9918)

SEC. 678G. DRUG AND CHILD SUPPORT SERVICES AND REFERRALS.

(a) DRUG TESTING AND REHABILITATION.—

(1) IN GENERAL.—Nothing in this subtitle shall be construed to prohibit a State from testing participants in programs, activities, or services carried out or provided under this subtitle for controlled substances. A State that conducts such testing shall inform the participants who test positive for any of such substances about the availability of treatment or rehabilitation services and refer such participants for appropriate treatment or rehabilitation services.

(2) ADMINISTRATIVE EXPENSES.—Any funds provided under this subtitle expended for such testing shall be considered to be expended for administrative expenses and shall be subject to the limitation specified in section 675C(b)(2).

(3) DEFINITION.—In this subsection, the term "controlled substance" has the meaning given the term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(b) CHILD SUPPORT SERVICES AND REFERRALS.—During each fiscal year for which an eligible entity receives a grant under section 675C, such entity shall—

(1) inform custodial parents in single-parent families that participate in programs, activities, or services carried out or provided under this subtitle about the availability of child support services; and

(2) refer eligible parents to the child support offices of State and local governments.

(42 U.S.C. 9919)

SEC. 679. OPERATIONAL RULE.

(a) RELIGIOUS ORGANIZATIONS INCLUDED AS NONGOVERNMENTAL PROVIDERS.—For any program carried out by the Federal Government, or by a State or local government under this subtitle, the government shall consider, on the same basis as other nongovernmental organizations, religious organizations to provide the assistance under the program, so long as the program is implemented in a manner consistent with the Establishment Clause of the first amendment to the Constitution. Neither the Federal Government nor a State or local government receiving funds under this

subtitle shall discriminate against an organization that provides assistance under, or applies to provide assistance under, this subtitle, on the basis that the organization has a religious character.

(b) RELIGIOUS CHARACTER AND INDEPENDENCE.—

(1) IN GENERAL.—A religious organization that provides assistance under a program described in subsection (a) shall retain its religious character and control over the definition, development, practice, and expression of its religious beliefs.

(2) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State or local government shall require a religious organization—

(A) to alter its form of internal governance, except (for purposes of administration of the community services block grant program) as provided in section 676B; or

(B) to remove religious art, icons, scripture, or other symbols;

in order to be eligible to provide assistance under a program described in subsection (a).

(3) EMPLOYMENT PRACTICES.—A religious organization's exemption provided under section 702 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1) regarding employment practices shall not be affected by its participation in, or receipt of funds from, programs described in subsection (a).

(c) LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.—No funds provided directly to a religious organization to provide assistance under any program described in subsection (a) shall be expended for sectarian worship, instruction, or proselytization.

(d) FISCAL ACCOUNTABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), any religious organization providing assistance under any program described in subsection (a) shall be subject to the same regulations as other nongovernmental organizations to account in accord with generally accepted accounting principles for the use of such funds provided under such program.

(2) LIMITED AUDIT.—Such organization shall segregate government funds provided under such program into a separate account. Only the government funds shall be subject to audit by the government.

(e) TREATMENT OF ELIGIBLE ENTITIES AND OTHER INTERMEDIATE ORGANIZATIONS.—If an eligible entity or other organization (referred to in this subsection as an "intermediate organization"), acting under a contract, or grant or other agreement, with the Federal Government or a State or local government, is given the authority under the contract or agreement to select nongovernmental organizations to provide assistance under the programs described in subsection (a), the intermediate organization shall have the same duties under this section as the government.

(42 U.S.C. 9920)

SEC. 680. DISCRETIONARY AUTHORITY OF THE SECRETARY.

(a) GRANTS, CONTRACTS, ARRANGEMENTS, LOANS, AND GUARANTEES.—

(1) IN GENERAL.—The Secretary shall, from funds reserved under section 674(b)(3), make grants, loans, or guarantees to States and public agencies and private, nonprofit organiza-

tions, or enter into contracts or jointly financed cooperative arrangements with States and public agencies and private, nonprofit organizations (and for-profit organizations, to the extent specified in paragraph (2)(E)) for each of the objectives described in paragraphs (2) through (4).

(2) COMMUNITY ECONOMIC DEVELOPMENT.—

(A) ECONOMIC DEVELOPMENT ACTIVITIES.—The Secretary shall make grants described in paragraph (1) on a competitive basis to private, nonprofit organizations that are community development corporations to provide technical and financial assistance for economic development activities designed to address the economic needs of low-income individuals and families by creating employment and business development opportunities.

(B) CONSULTATION.—The Secretary shall exercise the authority provided under subparagraph (A) after consultation with other relevant Federal officials.

(C) GOVERNING BOARDS.—For a community development corporation to receive funds to carry out this paragraph, the corporation shall be governed by a board that shall consist of residents of the community and business and civic leaders and shall have as a principal purpose planning, developing, or managing low-income housing or community development projects.

(D) GEOGRAPHIC DISTRIBUTION.—In making grants to carry out this paragraph, the Secretary shall take into consideration the geographic distribution of funding among States and the relative proportion of funding among rural and urban areas.

(E) RESERVATION.—Of the amounts made available to carry out this paragraph, the Secretary may reserve not more than 1 percent for each fiscal year to make grants to private, nonprofit organizations or to enter into contracts with private, nonprofit or for-profit organizations to provide technical assistance to aid community development corporations in developing or implementing activities funded to carry out this paragraph and to evaluate activities funded to carry out this paragraph.

(3) RURAL COMMUNITY DEVELOPMENT ACTIVITIES.—The Secretary shall provide the assistance described in paragraph (1) for rural community development activities, which shall include providing—

(A) grants to private, nonprofit corporations to enable the corporations to provide assistance concerning home repair to rural low-income families and concerning planning and developing low-income rural rental housing units; and

(B) grants to multistate, regional, private, nonprofit organizations to enable the organizations to provide training and technical assistance to small, rural communities concerning meeting their community facility needs.

(4) NEIGHBORHOOD INNOVATION PROJECTS.—The Secretary shall provide the assistance described in paragraph (1) for neighborhood innovation projects, which shall include providing grants to neighborhood-based private, nonprofit organizations to test or assist in the development of new approaches

or methods that will aid in overcoming special problems identified by communities or neighborhoods or otherwise assist in furthering the purposes of this subtitle, and which may include providing assistance for projects that are designed to serve low-income individuals and families who are not being effectively served by other programs.

(b) EVALUATION.—The Secretary shall require all activities receiving assistance under this section to be evaluated for their effectiveness. Funding for such evaluations shall be provided as a stated percentage of the assistance or through a separate grant awarded by the Secretary specifically for the purpose of evaluation of a particular activity or group of activities.

(c) ANNUAL REPORT.—The Secretary shall compile an annual report containing a summary of the evaluations required in subsection (b) and a listing of all activities assisted under this section. The Secretary shall annually submit the report to the Chairperson of the Committee on Education and the Workforce of the House of Representatives and the Chairperson of the Committee on Labor and Human Resources of the Senate.

(42 U.S.C. 9921)

SEC. 681. COMMUNITY FOOD AND NUTRITION PROGRAMS.

(a) GRANTS.—The Secretary may, through grants to public and private, nonprofit agencies, provide for community-based, local, statewide, and national programs—

(1) to coordinate private and public food assistance resources, wherever the grant recipient involved determines such coordination to be inadequate, to better serve low-income populations;

(2) to assist low-income communities to identify potential sponsors of child nutrition programs and to initiate such programs in underserved or unserved areas; and

(3) to develop innovative approaches at the State and local level to meet the nutrition needs of low-income individuals.

(b) ALLOTMENTS AND DISTRIBUTION OF FUNDS.—

(1) NOT TO EXCEED $6,000,000 IN APPROPRIATIONS.—Of the amount appropriated for a fiscal year to carry out this section (but not to exceed $6,000,000), the Secretary shall distribute funds for grants under subsection (a) as follows:

(A) ALLOTMENTS.—From a portion equal to 60 percent of such amount (but not to exceed $3,600,000), the Secretary shall allot for grants to eligible agencies for statewide programs in each State the amount that bears the same ratio to such portion as the low-income and unemployed population of such State bears to the low-income and unemployed population of all the States.

(B) COMPETITIVE GRANTS.—From a portion equal to 40 percent of such amount (but not to exceed $2,400,000), the Secretary shall make grants on a competitive basis to eligible agencies for local and statewide programs.

(2) GREATER AVAILABLE APPROPRIATIONS.—Any amounts appropriated for a fiscal year to carry out this section in excess of $6,000,000 shall be allotted as follows:

(A) ALLOTMENTS.—The Secretary shall use 40 percent of such excess to allot for grants under subsection (a) to el-

igible agencies for statewide programs in each State an amount that bears the same ratio to 40 percent of such excess as the low-income and unemployed population of such State bears to the low-income and unemployed population of all the States.

(B) COMPETITIVE GRANTS FOR LOCAL AND STATEWIDE PROGRAMS.—The Secretary shall use 40 percent of such excess to make grants under subsection (a) on a competitive basis to eligible agencies for local and statewide programs.

(C) COMPETITIVE GRANTS FOR NATIONWIDE PROGRAMS.—The Secretary shall use the remaining 20 percent of such excess to make grants under subsection (a) on a competitive basis to eligible agencies for nationwide programs, including programs benefiting Indians, as defined in section 677, and migrant or seasonal farmworkers.

(3) ELIGIBILITY FOR ALLOTMENTS FOR STATEWIDE PROGRAMS.—To be eligible to receive an allotment under paragraph (1)(A) or (2)(A), an eligible agency shall demonstrate that the proposed program is statewide in scope and represents a comprehensive and coordinated effort to alleviate hunger within the State.

(4) MINIMUM ALLOTMENTS FOR STATEWIDE PROGRAMS.—

(A) IN GENERAL.—From the amounts allotted under paragraphs (1)(A) and (2)(A), the minimum total allotment for each State for each fiscal year shall be—

(i) $15,000 if the total amount appropriated to carry out this section is not less than $7,000,000 but less than $10,000,000;

(ii) $20,000 if the total amount appropriated to carry out this section is not less than $10,000,000 but less than $15,000,000; or

(iii) $30,000 if the total amount appropriated to carry out this section is not less than $15,000,000.

(B) DEFINITION.—In this paragraph, the term "State" does not include Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(5) MAXIMUM GRANTS.—From funds made available under paragraphs (1)(B) and (2)(B) for any fiscal year, the Secretary may not make grants under subsection (a) to an eligible agency in an aggregate amount exceeding $50,000. From funds made available under paragraph (2)(C) for any fiscal year, the Secretary may not make grants under subsection (a) to an eligible agency in an aggregate amount exceeding $300,000.

(c) REPORT.—For each fiscal year, the Secretary shall prepare and submit, to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the grants made under this section. Such report shall include—

(1) a list of grant recipients;

(2) information on the amount of funding awarded to each grant recipient; and

(3) a summary of the activities performed by the grant recipients with funding awarded under this section and a de-

scription of the manner in which such activities meet the objectives described in subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 1999 through 2003.

(42 U.S.C. 9922)

SEC. 682. NATIONAL OR REGIONAL PROGRAMS DESIGNED TO PROVIDE INSTRUCTIONAL ACTIVITIES FOR LOW-INCOME YOUTH.

(a) GENERAL AUTHORITY.—The Secretary is authorized to make a grant to an eligible service provider to administer national or regional programs to provide instructional activities for low-income youth. In making such a grant, the Secretary shall give priority to eligible service providers that have a demonstrated ability to operate such a program.

(b) PROGRAM REQUIREMENTS.—Any instructional activity carried out by an eligible service provider receiving a grant under this section shall be carried out on the campus of an institution of higher education (as defined in section 1201(a)[1] of the Higher Education Act of 1965 (20 U.S.C. 1141(a))[2]) and shall include—

(1) access to the facilities and resources of such an institution;

(2) an initial medical examination and follow-up referral or treatment, without charge, for youth during their participation in such activity;

(3) at least one nutritious meal daily, without charge, for participating youth during each day of participation;

(4) high quality instruction in a variety of sports (that shall include swimming and that may include dance and any other high quality recreational activity) provided by coaches and teachers from institutions of higher education and from elementary and secondary schools (as defined in section 9101 of the Elementary and Secondary Education Act of 1965); and

(5) enrichment instruction and information on matters relating to the well-being of youth, to include educational opportunities and information on study practices, education for the prevention of drug and alcohol abuse, and information on health and nutrition, career opportunities, and family and job responsibilities.

(c) ADVISORY COMMITTEE; PARTNERSHIPS.—The eligible service provider shall, in each community in which a program is funded under this section—

(1) ensure that—

(A) a community-based advisory committee is established, with representatives from local youth, family, and social service organizations, schools, entities providing park and recreation services, and other community-based organizations serving high-risk youth; or

(B) an existing community-based advisory board, commission, or committee with similar membership is utilized to serve as the committee described in subparagraph (A); and

[1] So in law. Should probably be "section 101".
[2] So in law. Should probably be "(20 U.S.C. 1001)".

(2) enter into formal partnerships with youth-serving organizations or other appropriate social service entities in order to link program participants with year-round services in their home communities that support and continue the objectives of this subtitle.

(d) ELIGIBLE PROVIDERS.—A service provider that is a national private, nonprofit organization, a coalition of such organizations, or a private, nonprofit organization applying jointly with a business concern shall be eligible to apply for a grant under this section if—

(1) the applicant has demonstrated experience in operating a program providing instruction to low-income youth;

(2) the applicant agrees to contribute an amount (in cash or in kind, fairly evaluated) of not less than 25 percent of the amount requested, for the program funded through the grant;

(3) the applicant agrees to use no funds from a grant authorized under this section for administrative expenses; and

(4) the applicant agrees to comply with the regulations or program guidelines promulgated by the Secretary for use of funds made available through the grant.

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

(f) PROMULGATION OF REGULATIONS OR PROGRAM GUIDELINES.—The Secretary shall promulgate regulations or program guidelines to ensure funds made available through a grant made under this section are used in accordance with the objectives of this subtitle.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for each of fiscal years 1999 through 2003 for grants to carry out this section.

(42 U.S.C. 9923)

SEC. 683. REFERENCES.

Any reference in any provision of law to the poverty line set forth in section 624 or 625 of the Economic Opportunity Act of 1964 shall be construed to be a reference to the poverty line defined in section 673. Except as otherwise provided, any reference in any provision of law to any community action agency designated under title II of the Economic Opportunity Act of 1964 shall be construed to be a reference to an entity eligible to receive funds under the community services block grant program.

(42 U.S.C. 9924)

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HUMAN SERVICES REAUTHORIZATION ACT OF 1986

[Public Law 99–425, September 3, 1986 (100 Stat. 966)]

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TITLE VI—CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE PROGRAM

SEC. 601. SHORT TITLE.

This title may be cited as the "Child Development Associate Scholarship Assistance Act of 1985".

(42 U.S.C. 10901 note)

SEC. 602. GRANTS AUTHORIZED.

The Secretary is authorized to make a grant for any fiscal year to any State receiving a grant under title XX of the Social Security Act for such fiscal year to enable such State to award scholarships to eligible individuals within the State who are candidates for the Child Development Associate credential.

(42 U.S.C. 10901)

SEC. 603. APPLICATIONS.

(a) APPLICATION REQUIRED.—A State desiring to participate in the grant program established by this title shall submit an application to the Secretary in such form as the Secretary may require.

(b) CONTENTS OF APPLICATIONS.—A State's application shall contain appropriate assurances that—

(1) scholarship assistance made available with funds provided under this title will be awarded—

(A) only to eligible individuals;

(B) on the basis of the financial need of such individuals; and

(C) in amounts sufficient to cover the cost of application, assessment, and credentialing (including, at the option of the State, any training necessary for credentialing) for the Child Development Associate credential for such individuals;

(2) not more than 35 percent of the funds received under this title by a State may be used to provide scholarship assistance under paragraph (1) to cover the cost of training described in paragraph (1)(C); and

(3) not more than 10 percent of the funds received by the State under this title will be used for the costs of administering the program established in such State to award such assistance.

(c) EQUITABLE DISTRIBUTION.—In making grants under this title, the Secretary shall—

(1) distribute such grants equitably among States; and

(2) ensure that the needs of rural and urban areas are appropriately addressed.

(42 U.S.C. 10902)

SEC. 604. DEFINITIONS.

For purposes of this title—

(1) the term "eligible individual" means a candidate for the Child Development Associate credential whose income does not exceed the[1] 130 percent of the lower living standard income level,[2] by more than 50 percent;

(2) the term "lower living standard income level" means that income level (adjusted for regional, metropolitan, urban, and rural differences and family size) determined annually by the Secretary of Labor and based on the most recent lower living family budget issued by the Secretary of Labor;

(3) the term "Secretary" means the Secretary of Health and Human Services; and

(4) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, and Palau.

(42 U.S.C. 10903)

SEC. 605. ADMINISTRATIVE PROVISIONS.

(a) REPORTING.—Each State receiving grants under this title shall annually submit to the Secretary information on the number of eligible individuals assisted under the grant program, and their positions and salaries before and after receiving the Child Development Associate credential.

(b) PAYMENTS.—Payments pursuant to grants made under this title may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(42 U.S.C. 10904)

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal year 1995.

(42 U.S.C. 10905)

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[1] Section 502(1) of Public Law 101–501 should also strike "the".
[2] Section 502(1) of Public Law 101–501 should also strike the comma.

OLDER AMERICANS ACT OF 1965

(Public Law 89–73)

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

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

(42 U.S.C. 3001 note)

TITLE I—DECLARATION OF OBJECTIVES; DEFINITIONS

DECLARATION OF OBJECTIVES FOR OLDER AMERICANS

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

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

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

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

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

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

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

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

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

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

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

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

(42 U.S.C. 3001)

DEFINITIONS

SEC. 102. For the purposes of this Act—

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

(2) The term "Assistant Secretary" means the Assistant Secretary for Aging.

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

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

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

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

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

(8) The term "disability" means (except when such term is used in the phrase "severe disability", "developmental disabilities", "physical or mental disability", "physical and mental dis-

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

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

(A) is likely to continue indefinitely; and

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

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

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

(12) The term "disease prevention and health promotion services" means—

(A) health risk assessments;

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

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

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

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

(i) an institution of higher education;

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

(iii) a community-based organization;

(F) home injury control services, including screening of high-risk home environments and provision of educational programs on injury prevention (including fall and fracture prevention) in the home environment;

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

(H) educational programs on the availability, benefits, and appropriate use of preventive health services covered

under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

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

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

(K) gerontological counseling; and

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

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

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

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

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

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

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

(A) is 18 years of age or older;

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

(C) has a disability.

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

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

(B) organizations that—

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

(II) are institutions of higher education; and

(ii) receive funding under this Act.

(17) The term "area agency on aging" means an area agency on aging designated under section 305(a)(2)(A) or a State agency performing the functions of an area agency on aging under section 305(b)(5).

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

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

(A) services of homemakers and home health aides;

(B) visiting and telephone reassurance;

(C) chore maintenance;

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

(E) minor modification of homes that is necessary to facilitate the ability of older individuals to remain at home

and that is not available under another program (other than a program carried out under this Act);

(F) personal care services; and

(G) other in-home services as defined—

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

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

(20) The term "Native American" means—

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

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

(21) The term "case management service"—

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

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

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

(B) includes services and coordination such as—

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

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

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

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

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

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

(I) the older individual; or

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

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

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

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

(24) The term "exploitation" means the illegal or improper act or process of an individual, including a caregiver, using the

resources of an older individual for monetary or personal benefit, profit, or gain.

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

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

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

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

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

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

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

(A) physical and mental disabilities;

(B) language barriers; and

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

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

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

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

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

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

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

(D) to the maximum extent practicable, ensures that the individuals receive the services needed by the individuals, and are aware of the opportunities available to the individuals, by establishing adequate followup procedures; and

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

(i) older individuals with greatest social need; and

(ii) older individuals with greatest economic need.

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

(31) The term "legal assistance"—

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

(B) includes—

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

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

(32) The term "long-term care facility" means—

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

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

(C) for purposes of sections 307(a)(12)[1] and 712, a board and care facility; and

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

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

(34) The term "neglect" means—

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

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

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

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

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

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

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

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

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

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

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

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

(42 U.S.C. 3002)

TITLE II—ADMINISTRATION ON AGING

ESTABLISHMENT OF ADMINISTRATION ON AGING

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

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

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

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

(3) The Director of the Office for American Indian, Alaskan Native, and Native Hawaiian Aging shall—

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

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

(B) serve as the effective and visible advocate in behalf of older individuals who are Native Americans within the Department of Health and Human Services and with other departments and agencies of the Federal Government regarding all Federal policies affecting such individuals, with particular attention to services provided to Native Americans by the Indian Health Service;

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

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

(E) recommend to the Assistant Secretary policies and priorities with respect to the development and operation of pro-

grams and activities conducted under this Act relating to older individuals who are Native Americans;

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

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

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

(I) promote coordination—

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

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

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

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

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

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

(B) No individual shall be appointed Director if—

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

(I) a long-term care facility;

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

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

(ii) the individual—

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

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

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

(3) The Director shall—

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

(B) review and make recommendations to the Assistant Secretary regarding—

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

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

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

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

(ii) methods to periodically monitor and evaluate the operation of State Long-Term Care Ombudsman programs, to ensure that the programs satisfy the requirements of section 307(a)(9) and section 712, including provision of service to residents of board and care facilities and of similar adult care facilities;

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

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

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

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

(F) make recommendations to the Assistant Secretary and the Secretary regarding the policies of the Administration, and coordinate the activities of the Administration with the activities of other Federal entities, State and local entities, and nongovernmental entities, relating to State Long-Term Care Ombudsman programs;

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

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

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

(J) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an annual report

on the effectiveness of services provided under section 307(a)(9) and section 712;

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

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

(42 U.S.C. 3011)

FUNCTIONS OF ASSISTANT SECRETARY

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

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

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

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

(4) administer the grants provided by this Act;

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

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

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

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

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

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

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

comprehensive, coordinated services and opportunities for such individuals;

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

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

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

(15) consult with national organizations representing minority individuals to develop and disseminate training packages and to provide technical assistance efforts designed to assist State and area agencies on aging, and service providers, in providing services to older individuals with greatest economic need or individuals with greatest social need, with particular attention to and specific objectives for providing services to low-income minority individuals and older individuals residing in rural areas;

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

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

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

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

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

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

(C) the extent to which each area agency on aging designated under section 305(a) satisfied the requirements of paragraphs (2) and (5)(A) of section 306(a)[1];

(17) obtain from—

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

(B) the Social Security Administration information explaining the requirements for eligibility to receive supple-

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

mental security income benefits under title XVI of the Social Security Act (or assistance under a State plan program under title XVI of that Act);

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

(18)(A) establish and operate the National Ombudsman Resource Center (in this paragraph referred to as the "Center"), under the administration of the Director of the Office of Long-Term Care Ombudsman Programs, that will—

(i) by grant or contract—

(I) conduct research;

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

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

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

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

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

(B) make available to the Center not less than the amount of resources made available to the Long-Term Care Ombudsman National Resource Center for fiscal year 2000;

(19) conduct strict monitoring of State compliance with the requirements in effect, under this Act to prohibit conflicts of interest and to maintain the integrity and public purpose of services provided and service providers, under this Act in all contractual and commercial relationships;

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

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

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

(23) develop guidelines and a model job description for choosing and evaluating legal assistance developers referred to in sections 307(a)(18) and 731(b)(2) [1];

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

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

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

(A) uniform definitions and nomenclature;

(B) standardized data collection procedures;

(C) a participant identification and description system;

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

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

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

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

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

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

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

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

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

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

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

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

(4) participate in all departmental and interdepartmental activities to provide a leadership role for the Administration, State agencies, and area agencies on aging in the development and implementation of a national community-based long-term care program for older individuals.

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

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

(2) In operating the Center, the Assistant Secretary shall—

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

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

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

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

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

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

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

(C) The Assistant Secretary shall—

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

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

(4) The Assistant Secretary shall make available to the Center such resources as are necessary for the Center to carry out effectively the functions of the Center under this Act and not less than the amount of resources made available to the Resource Center on Elder Abuse for fiscal year 2000.

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

(i)[1] provide information about grants and projects under title IV;

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

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

(II) census data on aging demographics; and

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

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

(iv) analyze the information collected under section 201(c)(3)(F) by the Director of the Office for American Indian, Alaskan Native, and Native Hawaiian Aging;

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

(vi) be a national resource on statistical data regarding aging;[2]

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

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

(2)(A) The Assistant Secretary shall establish procedures specifying the length of time that the Center shall provide the information described in paragraph (1) with respect to a particular project or activity. The procedures shall require the Center to maintain the information beyond the term of the grant awarded, or contract entered into, to carry out the project or activity.

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

(i) practitioners in the field of aging;

(ii) older individuals;

(iii) representatives of institutions of higher education;

(iv) national aging organizations;

(v) State agencies;

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[1] Margin error in the amendment made by section 801(b)(2)(C)(i) of the Older Americans Act Amendments of 2000 (P.L. 106–501; 114 Stat. 2292).

[2] Error in amendment made by section 202(f) of Public Law 102–375. Should strike the semicolon and insert a period.

(vi) area agencies on aging;
(vii) legal assistance providers;
(viii) service providers; and
(ix) other persons with an interest in the field of aging.

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

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

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

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

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

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

(42 U.S.C. 3012)

FEDERAL AGENCY CONSULTATION

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

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

Secretary in carrying out title I of the Workforce Investment Act of 1998.

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

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

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

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

(1) title I of the Workforce Investment Act of 1998,

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

(3) titles XVI, XVIII, XIX, and XX of the Social Security Act,

(4) sections 231 and 232 of the National Housing Act,

(5) the United States Housing Act of 1937,

(6) section 202 of the Housing Act of 1959,

(7) title I of the Housing and Community Development Act of 1974,

(8) title I of the Higher Education Act of 1965 and the Adult Education and Family Literacy Act,

(9) sections 3, 9, and 16 of the Urban Mass Transportation Act of 1964,

(10) the Public Health Service Act, including block grants under title XIX of such Act,

(11) the Low-Income Home Energy Assistance Act of 1981,

(12) part A of the Energy Conservation in Existing Buildings Act of 1976, relating to weatherization assistance for low income persons,

(13) the Community Services Block Grant Act,

(14) demographic statistics and analysis programs conducted by the Bureau of the Census under title 13, United States Code,

(15) parts II and III of title 38, United States Code,

(16) the Rehabilitation Act of 1973,

(17) the Developmental Disabilities Assistance and Bill of Rights Act of 2000, and

(18) the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, established under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750–3766b)).

(42 U.S.C. 3013)

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

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

(42 U.S.C. 3013a)

SEC. 204. GIFTS AND DONATIONS.

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

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

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

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

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

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

(1) reflect unfavorably upon the ability of the Administration, the Department of Health and Human Services, or any employee of the Administration or Department, to carry out responsibilities or official duties under this Act in a fair and objective manner; or

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

(42 U.S.C. 3015)

ADMINISTRATION OF THE ACT

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

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

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

(C) conduct research and demonstrations;

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

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

(2)(A) The Assistant Secretary shall designate an officer or employee who shall serve on a full-time basis and who shall be responsible for the administration of the nutrition services described

in subparts 1 and 2 of part C of title III and shall have duties that include—

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

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

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

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

(v) developing guidelines on cost containment;

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

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

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

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

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

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

(ii)(I) be a registered dietitian;

(II) be a credentialed nutrition professional; or

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

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

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

(42 U.S.C. 3016)

EVALUATION

SEC. 206. (a) The Secretary shall measure and evaluate the impact of all programs authorized by this Act, their effectiveness in achieving stated goals in general, and in relation to their cost, their impact on related programs, their effectiveness in targeting for services under this Act unserved older individuals with greatest economic need (including low-income minority individuals and

older individuals residing in rural areas) and unserved older individuals with greatest social need (including low-income minority individuals and older individuals residing in rural areas), and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such programs. Evaluations shall be conducted by persons not immediately involved in the administration of the program or project evaluated.

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

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

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

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

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

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

(42 U.S.C. 3017)

REPORTS

SEC. 207. (a) Not later than one hundred and twenty days after the close of each fiscal year, the Assistant Secretary shall prepare and submit to the President and to the Congress a full and com-

plete report on the activities carried out under this Act. Such annual reports shall include—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) the Administrator of the Health Care Finance [1] Administration;

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

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

(D) the Secretary of Veterans Affairs; and

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

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

[1] Error in amendment made by section 103(c) of Public Law 101–175. Should strike "Finance" and insert "Financing".

carrying out this subsection, the Assistant Secretary shall consider—

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

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

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

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

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

(42 U.S.C. 3018)

JOINT FUNDING OF PROJECTS

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

(42 U.S.C. 3019)

ADVANCE FUNDING

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

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

(42 U.S.C. 3020)

APPLICATION OF OTHER LAWS

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

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

(42 U.S.C. 3020a)

REDUCTION OF PAPERWORK

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

(42 U.S.C. 3020b)

CONTRACTING AND GRANT AUTHORITY

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

(42 U.S.C. 3020c)

SURPLUS PROPERTY ELIGIBILITY

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

(42 U.S.C. 3020d)

SEC. 214. NUTRITION EDUCATION.

The Assistant Secretary and the Secretary of Agriculture may provide technical assistance and appropriate material to agencies carrying out nutrition education programs in accordance with section 339(2)(J).

(42 U.S.C. 3020e)

SEC. 215. PENSION COUNSELING AND INFORMATION PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) PENSION AND OTHER RETIREMENT BENEFITS.—The term "pension and other retirement benefits" means private, civil

service, and other public pensions and retirement benefits, including benefits provided under—

(A) the Social Security program under title II of the Social Security Act (42 U.S.C. 401 et seq.);

(B) the railroad retirement program under the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.);

(C) the government retirement benefits programs under the Civil Service Retirement System set forth in chapter 83 of title 5, United States Code, the Federal Employees Retirement System set forth in chapter 84 of title 5, United States Code, or other Federal retirement systems; or

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

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

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

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

(1) State agencies or area agencies on aging; and

(2) nonprofit organizations with a proven record of providing—

(A) services related to retirement of older individuals;

(B) services to Native Americans; or

(C) specific pension counseling.

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

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

(1) a plan to establish a pension counseling and information program that—

(A) establishes or continues a State or area pension counseling and information program;

(B) serves a specific geographic area;

(C) provides counseling (including direct counseling and assistance to individuals who need information regarding pension and other retirement benefits) and information that may assist individuals in obtaining, or establishing rights to, and filing claims or complaints regarding, pension and other retirement benefits;

(D) provides information on sources of pension and other retirement benefits;

(E) establishes a system to make referrals for legal services and other advocacy programs;

(F) establishes a system of referral to Federal, State, and local departments or agencies related to pension and other retirement benefits;

(G) provides a sufficient number of staff positions (including volunteer positions) to ensure information, counseling, referral, and assistance regarding pension and other retirement benefits;

(H) provides training programs for staff members, including volunteer staff members, of pension and other retirement benefits programs;

(I) makes recommendations to the Administration, the Department of Labor and other Federal, State, and local agencies concerning issues for older individuals related to pension and other retirement benefits; and

(J) establishes or continues an outreach program to provide information, counseling, referral and assistance regarding pension and other retirement benefits, with particular emphasis on outreach to women, minorities, older individuals residing in rural areas and low income retirees; and

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

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

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

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

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

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

(g) TRAINING AND TECHNICAL ASSISTANCE PROGRAM.—

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

(2) ELIGIBLE ENTITIES.—Entities that are eligible to receive a grant under this subsection include nonprofit private organizations with a record of providing national information, referral, and advocacy in matters related to pension and other retirement benefits.

(3) APPLICATION.—To be eligible to receive a grant under this subsection, an entity shall submit an applica-

tion to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require.

(h) PENSION ASSISTANCE HOTLINE AND INTRAGENCY COORDINATION.—

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

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

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

(i) REPORT TO CONGRESS.—Not later than 30 months after the date of the enactment of this section, the Assistant Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a report that—

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

(2) summarizes the scope and content of training and assistance provided under a program carried out under this section and the degree to which the training and assistance can be replicated;

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

(4) makes recommendations regarding the manner in which services provided in programs funded under this section can be incorporated into the ongoing programs of State agencies, area agencies on aging, multipurpose senior centers and other similar entities.

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

(42 U.S.C. 3020e–1)

SEC. 216. AUTHORIZATION OF APPROPRIATIONS.

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

(b) ELDERCARE LOCATOR SERVICE.—There are authorized to be appropriated to carry out section 202(a)(24) (relating to the National Eldercare Locator Service) such sums as may be necessary

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

for fiscal year 2001, and such sums as may be necessary for each of the 4 succeeding fiscal years.

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

(42 U.S.C. 3020f)

TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

PART A—GENERAL PROVISIONS

PURPOSE; ADMINISTRATION

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

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

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

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

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

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

(A) State agencies and area agencies on aging;

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

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

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

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

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

(2) In carrying out the provisions of this title, the Assistant Secretary may request the technical assistance and cooperation of the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of Transportation, the Office of Community Services, the Department of Veterans Affairs, the Substance Abuse and Mental Health Services Administration, and such other agencies and departments of the Federal Government as may be appropriate.

(c) The Assistant Secretary shall provide technical assistance and training (by contract, grant, or otherwise) to State long-term care ombudsman programs established under section 307(a)(9) in accordance with section 712, and to individuals within such programs designated under section 712 to be representatives of a long-term care ombudsman, in order to enable such ombudsmen and such representatives to carry out the ombudsman program effectively.

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

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

(42 U.S.C. 3021)

DEFINITIONS

SEC. 302. For the purpose of this title—

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

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

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

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

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

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

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

(B) an Indian tribal organization.

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

(42 U.S.C. 3022)

AUTHORIZATION OF APPROPRIATIONS; USES OF FUNDS

SEC. 303. (a)(1) There are authorized to be appropriated to carry out part B (relating to supportive services) such sums as may

be necessary for fiscal year 2001, and such sums as may be necessary for each of the 4 succeeding fiscal years.

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

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

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

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

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

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

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

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

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

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

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

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

(42 U.S.C. 3023)

ALLOTMENT; FEDERAL SHARE

SEC. 304. (a)(1) From the sums appropriated under subsections (a) through (d) of section 303 for each fiscal year, each State shall be allotted an amount which bears the same ratio to such sums as

the population of older individuals in such State bears to the population of older individuals in all States.

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

(3)(A) No State shall be allotted less than ½ of 1 percent of the sum appropriated for the fiscal year for which the determination is made.

(B) Guam and the United States Virgin Islands shall each be allotted not less than ¼ of 1 percent of the sum appropriated for the fiscal year for which the determination is made.

(C) American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than 1/16 of 1 percent of the sum appropriated for the fiscal year for which the determination is made. For the purposes of the exception contained in subparagraph (A) only, the term "'State"' [1] does not include Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

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

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

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

(b) Whenever the Assistant Secretary determines that any amount allotted to a State under part B or C, or subpart 1 of part E, for a fiscal year under this section will not be used by such State for carrying out the purpose for which the allotment was made, the Assistant Secretary shall make such allotment available for carrying out such purpose to one or more other States to the extent the Assistant Secretary determines that such other State will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this title, be regarded as part of such State's allotment (as determined under subsection (a)) for such year, but shall remain available until the end of the succeeding fiscal year.

(c) If the Assistant Secretary finds that any State has failed to qualify under the State plan requirements of section 307 or the Assistant Secretary does not approve the funding formula required under section 305(a)(2)(C), the Assistant Secretary shall withhold the allotment of funds to such State referred to in subsection (a). The Assistant Secretary shall disburse the funds so withheld di-

[1] Error in amendment made by section 303(a) of the Older Americans Act Amendments of 2000 (P.L. 106–501; 114 Stat. 2239) which included double quotation marks around the word "State".

rectly to any public or private nonprofit institution or organization, agency, or political subdivision of such State submitting an approved plan under section 307, which includes an agreement that any such payment shall be matched in the proportion determined under subsection (d)(1)(D) for such State, by funds or in-kind resources from non-Federal sources.

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

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

(B) such amount (excluding any amount attributable to funds appropriated under section 303(a)(3)) as the State agency determines to be adequate for conducting an effective ombudsman program under section 307(a)(9) shall be available for conducting such program;

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

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

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

(42 U.S.C. 3024)

ORGANIZATION

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

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

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

(B) administer the State plan within such State;

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

(D) serve as an effective and visible advocate for older individuals by reviewing and commenting upon all State plans, budgets, and policies which affect older individuals and providing technical assistance to any agency, organization, association, or individual representing the needs of older individuals; and

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

(2) the State agency shall—

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

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

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

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

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

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

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

clude proposed methods of carrying out the preference in the State plan;

(F) provide assurances that the State agency will require use of outreach efforts described in section 307(a)(16); and

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

(ii) provide an assurance that the State agency will undertake specific program development, advocacy, and outreach efforts focused on the needs of low-income minority older individuals [1]; and

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

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

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

(3) The chief executive officer of each State in which a planning and service area crosses State boundaries, or in which an interstate Indian reservation is located, may apply to the Assistant Secretary to request redesignation as an interstate planning and service area comprising the entire metropolitan area or Indian reservation. If the Assistant Secretary approves such an application, the Assistant Secretary shall adjust the State allotments of the areas within the planning and service area in which the interstate planning and service area is established to reflect the number of

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

older individuals within the area who will be served by an interstate planning and service area not within the State.

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

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

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

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

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

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

(III) divide the State into different planning and services [1] areas; or

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

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

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

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

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

[1] Error in amendment made by section 305(b) of Public Law 102–375. Should strike "services" and insert "service".

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

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

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

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

(II) procedural grounds.

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

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

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

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

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

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

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

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

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

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

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

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

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

(42 U.S.C. 3025)

AREA PLANS

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

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

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

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

(B) in-home services, including supportive services for families of older individuals who are victims of Alzheimer's disease and related disorders with neurological and organic brain dysfunction; and

(C) legal assistance;

and assurances that the area agency on aging will report annually to the State agency in detail the amount of funds expended for each such category during the fiscal year most recently concluded;

(3)(A) designate, where feasible, a focal point for comprehensive service delivery in each community, giving special consideration to designating multipurpose senior centers (including multipurpose senior centers operated by organizations referred to in paragraph (6)(C)) as such focal point; and

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

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

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

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

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

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

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

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

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

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

(B)[1] provide assurances that the area agency on aging will use outreach efforts that will—

(i)[1] identify individuals eligible for assistance under this Act, with special emphasis on—

(I)[1] older individuals residing in rural areas;

(II)[1] older individuals with greatest economic need (with particular attention to low-income minority individuals and older individuals residing in rural areas);

(III)[1] older individuals with greatest social need (with particular attention to low-income minority individuals and older individuals residing in rural areas);

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

(IV)[1] older individuals with severe disabilities;

(V)[1] older individuals with limited English-speaking ability; and

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

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

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

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

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

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

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

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

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

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

[1] See footnote on previous page.

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

and that meet the requirements under section 676B of the Community Services Block Grant Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) be provided by a public agency or a nonprofit private agency that—

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) disclose to the Assistant Secretary and the State agency—

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

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

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

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

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

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

(15)[1] provide assurances that preference in receiving services under this title will not be given by the area agency on aging to particular older individuals as a result of a contract or commercial relationship that is not carried out to implement this title.

(15)[1] provide assurances that funds received under this title will not be used to pay any part of a cost (including an administrative cost) incurred by the area agency on aging to carry out a contract or commercial relationship that is not carried out to implement this title;

(16)[1] provide assurances that preference in receiving services under this title will not be given by the area agency on aging to particular older individuals as a result of a contract or commercial relationship that is not carried out to implement this title;

(b) Each State, in approving area agency on aging plans under this section, shall waive the requirement described in paragraph (2) of subsection (a) for any category of services described in such paragraph if the area agency on aging demonstrates to the State agency that services being furnished for such category in the area are sufficient to meet the need for such services in such area and had conducted a timely public hearing upon request.

(c)(1) Subject to regulations prescribed by the Assistant Secretary, an area agency on aging designated under section 305(a)(2)(A) or, in areas of a State where no such agency has been designated, the State agency, may enter into agreement with agencies administering programs under the Rehabilitation Act of 1973, and titles XIX and XX of the Social Security Act for the purpose

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

of developing and implementing plans for meeting the common need for transportation services of individuals receiving benefits under such Acts and older individuals participating in programs authorized by this title.

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

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

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

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

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

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

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

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

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

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

(42 U.S.C. 3026)

STATE PLANS

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

State is in compliance with such requirements. Each such plan shall comply with all of the following requirements:

(1) The plan shall—

(A) require each area agency on aging designated under section 305(a)(2)(A) to develop and submit to the State agency for approval, in accordance with a uniform format developed by the State agency, an area plan meeting the requirements of section 306; and

(B) be based on such area plans.

(2) The plan shall provide that the State agency will—

(A) evaluate, using uniform procedures described in section 202(a)(29), the need for supportive services (including legal assistance pursuant to 307(a)(11), information and assistance, and transportation services), nutrition services, and multipurpose senior centers within the State;

(B) develop a standardized process to determine the extent to which public or private programs and resources (including volunteers and programs and services of voluntary organizations) that have the capacity and actually meet such need; and

(C) specify a minimum proportion of the funds received by each area agency on aging in the State to carry out part B that will be expended (in the absence of a waiver under section 306(b) or 316) by such area agency on aging to provide each of the categories of services specified in section 306(a)(2).

(3) The plan shall—

(A) include (and may not be approved unless the Assistant Secretary approves) the statement and demonstration required by paragraphs (2) and (4) of section 305(d) (concerning intrastate distribution of funds); and

(B) with respect to services for older individuals residing in rural areas—

(i) provide assurances that the State agency will spend for each fiscal year, not less than the amount expended for such services for fiscal year 2000;

(ii) identify, for each fiscal year to which the plan applies, the projected costs of providing such services (including the cost of providing access to such services); and

(iii) describe the methods used to meet the needs for such services in the fiscal year preceding the first year to which such plan applies.

(4) The plan shall provide that the State agency will conduct periodic evaluations of, and public hearings on, activities and projects carried out in the State under this title and title VII, including evaluations of the effectiveness of services provided to individuals with greatest economic need, greatest social need, or disabilities, with particular attention to low-income minority individuals and older individuals residing in rural areas.

(5) The plan shall provide that the State agency will—

(A) afford an opportunity for a hearing upon request, in accordance with published procedures, to any area agen-

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

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

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

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

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

(B) The plan shall provide assurances that—

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

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

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

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

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

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

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

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

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

(9) The plan shall provide assurances that the State agency will carry out, through the Office of the State Long-Term Care Ombudsman, a State Long-Term Care Ombudsman pro-

gram in accordance with section 712 and this title, and will expend for such purpose an amount that is not less than an amount expended by the State agency with funds received under this title for fiscal year 2000, and an amount that is not less than the amount expended by the State agency with funds received under title VII for fiscal year 2000.

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

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

(A) the plan contains assurances that area agencies on aging will (i) enter into contracts with providers of legal assistance which can demonstrate the experience or capacity to deliver legal assistance; (ii) include in any such contract provisions to assure that any recipient of funds under division (i) will be subject to specific restrictions and regulations promulgated under the Legal Services Corporation Act (other than restrictions and regulations governing eligibility for legal assistance under such Act and governing membership of local governing boards) as determined appropriate by the Assistant Secretary; and (iii) attempt to involve the private bar in legal assistance activities authorized under this title, including groups within the private bar furnishing services to older individuals on a pro bono and reduced fee basis;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) taking such action as may be appropriate to assure that counseling assistance is made available to such older individuals who are of limited English-speaking ability in order to assist such older individ-

uals in participating in programs and receiving assistance under this Act; and

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

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

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

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

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

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

(i) older individuals residing in rural areas;

(ii) older individuals with greatest economic need (with particular attention to low-income minority individuals and older individuals residing in rural areas);

(iii) older individuals with greatest social need (with particular attention to low-income minority individuals and older individuals residing in rural areas);

(iv) older individuals with severe disabilities;

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

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

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

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

(18) The plan shall provide assurances that area agencies on aging will conduct efforts to facilitate the coordination of community-based, long-term care services, pursuant to section 306(a)(7), for older individuals who—

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

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

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

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

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

(21) The plan shall—

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

(B) provide an assurance that the State agency will pursue activities to increase access by older individuals who are Native Americans to all aging programs and benefits provided by the agency, including programs and benefits provided under this title, if applicable, and specify the ways in which the State agency intends to implement the activities.

(22) If case management services are offered to provide access to supportive services, the plan shall provide that the State agency shall ensure compliance with the requirements specified in section 306(a)(8).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) in the administration of the plan there is a failure to comply substantially with any such provision of subsection (a),

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

(e)(1) A State which is dissatisfied with a final action of the Assistant Secretary under subsection (b), (c), or (d) may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within 30 days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Assistant Secretary, or any officer designated by the Assistant Secretary for such purpose. The Assistant Secretary thereupon shall file in the court the record of the proceedings on which the Assistant Secretary's action is based, as provided in section 2112 of title 28, United States Code.

(2) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Assistant Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Assistant Secretary may modify or set

aside the Assistant Secretary's order. The findings of the Assistant Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown may remand the case to the Assistant Secretary to take further evidence, and the Assistant Secretary shall, within 30 days, file in the court the record of those further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Assistant Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

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

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

(42 U.S.C. 3027)

PLANNING, COORDINATION, EVALUATION, AND ADMINISTRATION OF STATE PLANS

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

(2) Any sums available to a State under subsection (b)(1) for part of the cost of the administration of its State plan which the State determines is not needed for such purposes may be used by the State to supplement the amount available under section 304(d)(1)(A) to cover part of the cost of the administration of area plans.

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

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

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

(B) in the case of Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the greater of 5 percent of such allotment or $75,000;

shall be available to such State to carry out the purposes of this section.

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

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

(B) in the case of Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the greater of 5 percent of such allotment or $100,000;

shall be available to such State to carry out the purposes of this section.

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

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

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

(ii) the State is making full and effective use of its allotment under paragraph (1) and of the personnel of the State agency and area agencies designated under section 305(a)(2)(A) in the administration of its State plan in accordance with subsection (a); and

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

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

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

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

(4)(A) Notwithstanding any other provision of this title and except as provided in subparagraph (B), with respect to funds received by a State and attributable to funds appropriated under paragraph (1) or (2) of section 303(b), the State may elect in its plan under section 307(a)(13) regarding part C of this title,[1] to transfer not more than 40 percent of the funds so received between subpart 1 and subpart 2 of part C, for use as the State considers appropriate to meet the needs of the area served. The Assistant Secretary shall approve any such transfer unless the Assistant Secretary determines that such transfer is not consistent with the objectives of this Act.

(B) If a State demonstrates, to the satisfaction of the Assistant Secretary, that funds received by the State and attributable to funds appropriated under paragraph (1) or (2) of section 303(b), including funds transferred under subparagraph (A) without regard to this subparagraph, for any fiscal year are insufficient to satisfy the need for services under subpart 1 or subpart 2 of part C, then the Assistant Secretary may grant a waiver that permits the State to transfer under subparagraph (A) to satisfy such need an additional 10 percent of the funds so received by a State and attributable to funds appropriated under paragraph (1) or (2) of section 303(b).

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

(i) be not more than one page in length;

(ii) include a request that the waiver be granted;

(iii) specify the amount of the funds received by a State and attributable to funds appropriated under paragraph (1) or (2) of section 303(b), over the permissible 40 percent referred to in subparagraph (A), that the State requires to satisfy the need for services under subpart 1 or 2 of part C; and

(iv) not include a request for a waiver with respect to an amount if the transfer of the amount would jeopardize the appropriate provision of services under subpart 1 or 2 of part C.

(5)(A) Notwithstanding any other provision of this title, of the funds received by a State attributable to funds appropriated under subsection (a)(1), and paragraphs (1) and (2) of subsection (b), of section 303, the State may elect to transfer not more than 30 percent for any fiscal year between programs under part B and part C, for use as the State considers appropriate. The State shall notify the Assistant Secretary of any such election.

(B) At a minimum, the notification described in subparagraph (A) shall include a description of the amount to be transferred, the

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

purposes of the transfer, the need for the transfer, and the impact of the transfer on the provision of services from which the funding will be transferred.

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

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

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

(B) the rationales for the transfers;

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

(i) subpart 1 of part C; and

(ii) subpart 2 of part C; and

(D) in the case of transfers described in paragraph (5)(A)—

(i) in the case of transfers to part B, information on the supportive services, or services provided through senior centers, for which the transfers were used; and

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

(I) part B; and

(II) part C, including the effect on the number of meals served.

(c) The amounts of any State's allotment under subsection (b) for any fiscal year which the Assistant Secretary determines will not be required for that year for the purposes described in subsection (a)(1) shall be available to provide services under part B or part C, or both, in the State.

(42 U.S.C. 3028)

PAYMENTS

SEC. 309. (a) Payments of grants or contracts under this title may be made (after necessary adjustments resulting from previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Assistant Secretary may determine. From a State's allotment for a fiscal year which is available under section 308 the Assistant Secretary may pay to a State which does not have a State plan approved under section 307 such amounts as the Assistant Secretary deems appropriate for the purpose of assisting such State in developing a State plan.

(b)(1) For each fiscal year, not less than 25 percent of the non-Federal share of the total expenditures under the State plan which is required by section 304(d) shall be met from funds from State or local public sources.

(2) Funds required to meet the non-Federal share required by section 304(d)(1)(D), in amounts exceeding the non-Federal share required prior to fiscal year 1981, shall be from State sources.

(c) A State's allotment under section 304 for a fiscal year shall be reduced by the percentage (if any) by which its expenditures for

such year from State sources under its State plan approved under section 307 are less than its average annual expenditures from such sources for the period of 3 fiscal years preceding such year.

(42 U.S.C. 3029)

DISASTER RELIEF REIMBURSEMENTS

SEC. 310. (a)(1) The Assistant Secretary may provide reimbursements to any State (or to any tribal organization receiving a grant under title VI), upon application for such reimbursement, for funds such State makes available to area agencies on aging in such State (or funds used by such tribal organization) for the delivery of supportive services (and related supplies) during any major disaster declared by the President in accordance with the Robert T. Stafford Relief and Emergency Assistance Act.

(2) Total payments to all States and such tribal organizations under paragraph (1) in any fiscal year shall not exceed 2 percent of the total amount appropriated and available to carry out title IV.

(3) If the Assistant Secretary decides, in the 5-day period beginning on the date such disaster is declared by the President, to provide an amount of reimbursement under paragraph (1) to a State or such tribal organization, then the Assistant Secretary shall provide not less than 75 percent of such amount to such State or such tribal organization not later than 5 days after the date of such decision.

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

(2) Amounts set aside under paragraph (1) which are not obligated by the end of the third quarter of any fiscal year shall be made available to carry out title IV.

(c) Nothing in this section shall be construed to prohibit expenditures by States and such tribal organizations for disaster relief for older individuals in excess of amounts reimbursable under this section, by using funds made available to them under other sections of this Act or under other provisions of Federal or State law, or from private sources.

(42 U.S.C. 3030)

NUTRITION SERVICES INCENTIVE PROGRAM

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

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

number of such meals served in all States and by all title VI grantees under all such plans and applications approved for such preceding fiscal year.

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

(c)(1) Agricultural commodities and products purchased by the Secretary of Agriculture under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), shall be donated to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

(2) The Commodities Credit Corporation shall dispose of food commodities under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) by donating them to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this title.

(3) Dairy products purchased by the Secretary of Agriculture under section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a–1) shall be used to meet the requirements of programs providing nutrition services in accordance with the provisions of this title.

(d)(1) In any case in which a State elects to receive cash payments,,[1] the Secretary of Agriculture shall make cash payments to such State in an amount equivalent in value to the donated foods which the State otherwise would have received if such State had retained its commodity distribution.

(2) When such payments are made, the State agency shall promptly and equitably disburse any cash it receives in lieu of commodities to recipients of grants or contracts. Such disbursements shall only be used by such recipients of grants or contracts to purchase United States agricultural commodities and other foods for their nutrition projects.

(3) Nothing in this subsection shall be construed to authorize the Secretary of Agriculture to require any State to elect to receive cash payments under this subsection.

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

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

(f) In each fiscal year, the Secretary of Agriculture and the Secretary of Health and Human Services shall jointly disseminate to

[1] Error in the amendment made by section 309(5) of the Older Americans Act Amendments of 2000 (P.L. 106–501; 114 Stat. 2247).

State agencies, area agencies on aging, and providers of nutrition services assisted under this title, information concerning—

(1) the existence of any Federal commodity processing program in which such State agencies, area agencies on aging, and providers may be eligible to participate; and

(2) the procedures to be followed to participate in the program.

(42 U.S.C. 3030a)

MULTIPURPOSE SENIOR CENTERS: RECAPTURE OF PAYMENTS

SEC. 312. If, within 10 years after acquisition, or within 20 years after the completion of construction, of any facility for which funds have been paid under this title—

(1) the owner of the facility ceases to be a public or nonprofit private agency or organization; or

(2) the facility ceases to be used for the purposes for which it was acquired (unless the Assistant Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so);

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(42 U.S.C. 3030b)

AUDIT

SEC. 313. (a) The Assistant Secretary and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to a grant or contract received under this title.

(b) State agencies and area agencies on aging shall not request information or data from providers which is not pertinent to services furnished pursuant to this Act or a payment made for such services.

(42 U.S.C. 3030c)

SEC. 314. RIGHTS RELATING TO IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS.

The Assistant Secretary shall require entities that provide in-home services under this title to promote the rights of each older individual who receives such services. Such rights include the following:

(1) The right—

(A) to be fully informed in advance about each in-home service provided by such entity under this title and about any change in such service that may affect the well-being of such individual; and

(B) to participate in planning and changing an in-home service provided under this title by such entity unless such individual is judicially adjudged incompetent.

(2) The right to voice a grievance with respect to such service that is or fails to be so provided, without discrimination or reprisal as a result of voicing such grievance.

(3) The right to confidentiality of records relating to such individual.

(4) The right to have the property of such individual treated with respect.

(5) The right to be fully informed (orally and in writing), in advance of receiving an in-home service under this title, of such individual's rights and obligations under this title.

(42 U.S.C. 3030c–1)

SEC. 315. CONSUMER CONTRIBUTIONS.

(a) COST SHARING.—

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

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

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

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

(C) Congregate and home delivered meals.

(D) Any services delivered through tribal organizations.

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

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

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

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

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

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

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

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

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

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

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

(A) a significant proportion of persons receiving services under this Act subject to cost sharing in the planning and service area have incomes below the threshold established in State policy; or

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

(b) VOLUNTARY CONTRIBUTIONS.—

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

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

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

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

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

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

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

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

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

(c) PARTICIPATION.—

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

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

(d) EVALUATION.—Not later than 1 year after the date of the enactment of the Older Americans Act Amendments of 2000, and annually thereafter, the Assistant Secretary shall conduct a comprehensive evaluation of practices for cost sharing to determine its impact on participation rates with particular attention to low-income and minority older individuals and older individuals residing in rural areas. If the Assistant Secretary finds that there is a disparate impact upon low-income or minority older individuals or older individuals residing in rural areas in any State or region within the State regarding the provision of services, the Assistant Secretary shall take corrective action to assure that such services are provided to all older individuals without regard to the cost sharing criteria.

(42 U.S.C. 3030c–2)

SEC. 316. WAIVERS.

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

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

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

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

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

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

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

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

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

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

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

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

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

(42 U.S.C. 3030c–3)

PART B—SUPPORTIVE SERVICES AND SENIOR CENTERS

PROGRAM AUTHORIZED

SEC. 321. (a) The Assistant Secretary shall carry out a program for making grants to States under State plans approved under section 307 for any of the following supportive services:

(1) health (including mental health), education and training, welfare, informational, recreational, homemaker, counseling, or referral services;

(2) transportation services to facilitate access to supportive services or nutrition services, and services provided by an area agency on aging, in conjunction with local transportation service providers, public transportation agencies, and other local

government agencies, that result in increased provision of such transportation services for older individuals;

(3) services designed to encourage and assist older individuals to use the facilities and services (including information and assistance services) available to them, including language translation services to assist older individuals with limited-English speaking ability to obtain services under this title;

(4) services designed (A) to assist older individuals to obtain adequate housing, including residential repair and renovation projects designed to enable older individuals to maintain their homes in conformity with minimum housing standards; (B) to adapt homes to meet the needs of older individuals who have physical disabilities; (C) to prevent unlawful entry into residences of older individuals, through the installation of security devices and through structural modifications or alterations of such residences; or (D) to assist older individuals in obtaining housing for which assistance is provided under programs of the Department of Housing and Urban Development;

(5) services designed to assist older individuals in avoiding institutionalization and to assist individuals in long-term care institutions who are able to return to their communities, including—

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

(B) supportive activities to meet the special needs of caregivers, including caretakers who provide in-home services to frail older individuals; and

(C) in-home services and other community services, including home health, homemaker, shopping, escort, reader, and letter writing services, to assist older individuals to live independently in a home environment;

(6) services designed to provide to older individuals legal assistance and other counseling services and assistance, including—

(A) tax counseling and assistance, financial counseling, and counseling regarding appropriate health and life insurance coverage;

(B) representation—

(i) of individuals who are wards (or are allegedly incapacitated); and

(ii) in guardianship proceedings of older individuals who seek to become guardians, if other adequate representation is unavailable in the proceedings; and

(C) provision, to older individuals who provide uncompensated care to their adult children with disabilities, of counseling to assist such older individuals with permanency planning for such children;

(7) services designed to enable older individuals to attain and maintain physical and mental well-being through programs of regular physical activity, exercise, music therapy, art therapy, and dance-movement therapy;

(8) services designed to provide health screening to detect or prevent illnesses, or both, that occur most frequently in older individuals;

(9) services designed to provide, for older individuals, preretirement counseling and assistance in planning for and assessing future post-retirement needs with regard to public and private insurance, public benefits, lifestyle changes, relocation, legal matters, leisure time, and other appropriate matters;

(10) services of an ombudsman at the State level to receive, investigate, and act on complaints by older individuals who are residents of long-term care facilities and to advocate for the well-being of such individuals;

(11) services which are designed to meet the unique needs of older individuals who are disabled, and of older individuals who provide uncompensated care to their adult children with disabilities;

(12) services to encourage the employment of older workers, including job and second career counseling and, where appropriate, job development, referral, and placement, and including the coordination of the services with programs administered by or receiving assistance from the Department of Labor, including programs carried out under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.);

(13) crime prevention services and victim assistance programs for older individuals;

(14) a program, to be known as "Senior Opportunities and Services", designed to identify and meet the needs of low-income older individuals in one or more of the following areas: (A) development and provision of new volunteer services; (B) effective referral to existing health, employment, housing, legal, consumer, transportation, and other services; (C) stimulation and creation of additional services and programs to remedy gaps and deficiencies in presently existing services and programs; and (D) such other services as the Assistant Secretary may determine are necessary or especially appropriate to meet the needs of low-income older individuals and to assure them greater self-sufficiency;

(15) services for the prevention of abuse of older individuals in accordance with chapter 3 of subtitle A of title VII and section 307(a)(12);

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

(17) health and nutrition education services, including information concerning prevention, diagnosis, treatment, and rehabilitation of age-related diseases and chronic disabling conditions;

(18) services designed to enable mentally impaired older individuals to attain and maintain emotional well-being and independent living through a coordinated system of support services;

(19) services designed to support family members and other persons providing voluntary care to older individuals that need long-term care services;

(20) services designed to provide information and training for individuals who are or may become guardians or representative payees of older individuals, including information on the powers and duties of guardians and representative payees and on alternatives to guardianships;

(21) services to encourage and facilitate regular interaction between school-age children and older individuals, including visits in long-term care facilities, multipurpose senior centers, and other settings;

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

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

if such services meet standards prescribed by the Assistant Secretary and are necessary for the general welfare of older individuals. For purposes of paragraph (5), the term "client assessment through case management" includes providing information relating to assistive technology.

(b)(1) The Assistant Secretary shall carry out a program for making grants to States under State plans approved under section 307 for the acquisition, alteration, or renovation of existing facilities, including mobile units, and, where appropriate, construction of facilities to serve as multipurpose senior centers.

(2) Funds made available to a State under this part may be used for the purpose of assisting in the operation of multipurpose senior centers and meeting all or part of the costs of compensating professional and technical personnel required for the operation of multipurpose senior centers.

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

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

(42 U.S.C. 3030d)

[1] Error in the amendment made by section 311(1)(F) of the Older Americans Act Amendments of 2000 (P.L. 106–501; 114 Stat. 2251).

PART C—NUTRITION SERVICE

Subpart 1—Congregate Nutrition Services

PROGRAM AUTHORIZED

SEC. 331. The Assistant Secretary shall carry out a program for making grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects—

(1) which, 5 or more days a week (except in a rural area where such frequency is not feasible (as defined by the Assistant Secretary by regulation) and a lesser frequency is approved by the State agency), provide at least one hot or other appropriate meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide;

(2) which shall be provided in congregate settings, including adult day care facilities and multigenerational meal sites; and

(3) which may include nutrition education services and other appropriate nutrition services for older individuals.

(42 U.S.C. 3030e)

Subpart 2—Home Delivered Nutrition Services

PROGRAM AUTHORIZED

SEC. 336. The Assistant Secretary shall carry out a program for making grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects for older individuals which, 5 or more days a week (except in a rural area where such frequency is not feasible (as defined by the Assistant Secretary by regulation) and a lesser frequency is approved by the State agency), provide at least one home delivered hot, cold, frozen, dried, canned, or supplemental foods (with a satisfactory storage life) meal per day and any additional meals which the recipient of a grant or contract under this subpart may elect to provide.

(42 U.S.C. 3030f)

CRITERIA

SEC. 337. The Assistant Secretary, in consultation with organizations of and for the aged, blind, and disabled, and with representatives from the American Dietetic Association, the Dietary Managers Association, the National Association of Area Agencies on Aging, the National Association of Nutrition and Aging Services Programs, the National Association of Meals Programs, Incorporated, and any other appropriate group, shall develop minimum criteria of efficiency and quality for the furnishing of home delivered meal services for projects described in section 336. The criteria required by this section shall take into account the ability of established home delivered meals programs to continue such services without major alteration in the furnishing of such services.

(42 U.S.C. 3030g)

Subpart 3—General Provisions

SEC. 339. NUTRITION.

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

(1) solicit the advice of a dietitian or individual with comparable expertise in the planning of nutritional services, and

(2) ensure that the project—

(A) provides meals that—

(i) comply with the Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture,

(ii) provide to each participating older individual—

(I) a minimum of 33⅓ percent of the daily recommended dietary allowances as established by the Food and Nutrition Board of the Institute of Medicine of the National Academy of Sciences, if the project provides one meal per day,

(II) a minimum of 66⅔ percent of the allowances if the project provides two meals per day, and

(III) 100 percent of the allowances if the project provides three meals per day, and

(iii) to the maximum extent practicable, are adjusted to meet any special dietary needs of program participants,

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

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

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

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

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

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

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

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

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

(42 U.S.C. 3030g–21)

SEC. 339A. PAYMENT REQUIREMENT.

Payments made by a State agency or an area agency on aging for nutrition services (including meals) provided under part A, B, or C may not be reduced to reflect any increase in the level of assistance provided under section 311.

(42 U.S.C. 3030g–22)

PART D—DISEASE PREVENTION AND HEALTH PROMOTION SERVICES

PROGRAM AUTHORIZED

SEC. 361. (a) The Assistant Secretary shall carry out a program for making grants to States under State plans approved under section 307 to provide disease prevention and health promotion services and information at multipurpose senior centers, at congregate meal sites, through home delivered meals programs, or at other appropriate sites. In carrying out such program, the Assistant Secretary shall consult with the Directors of the Centers for Disease Control and Prevention and the National Institute on Aging.

(b) The Assistant Secretary shall, to the extent possible, assure that services provided by other community organizations and agencies are used to carry out the provisions of this part.

(42 U.S.C. 3030m)

DISTRIBUTION TO AREA AGENCIES ON AGING

SEC. 362. The State agency shall give priority, in carrying out this part, to areas of the State—

(1) which are medically underserved; and

(2) in which there are a large number of older individuals who have the greatest economic need for such services.

(42 U.S.C. 3030n)

PART E—NATIONAL FAMILY CAREGIVER SUPPORT PROGRAM

SEC. 371. SHORT TITLE.

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

(42 U.S.C. 3030s note)

Subpart 1—Caregiver Support Program

SEC. 372. DEFINITIONS.

In this subpart:

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

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

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

(A) lives with the child;

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

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

(42 U.S.C. 3030s)

SEC. 373. PROGRAM AUTHORIZED.

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

(1) for family caregivers; and

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

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

(1) information to caregivers about available services;

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

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

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

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

(c) POPULATION SERVED; PRIORITY.—

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

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

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

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

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

(e) QUALITY STANDARDS AND MECHANISMS AND ACCOUNTABILITY.—

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

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

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

(f) CAREGIVER ALLOTMENT.—

(1) IN GENERAL.—

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

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

(C) The number of individuals 70 years of age or older in any State and in all States shall be determined by the Assistant Secretary on the basis of the most recent data

available from the Bureau of the Census and other reliable demographic data satisfactory to the Assistant Secretary.

(2) MINIMUM ALLOTMENT.—

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

(B)(i) Each State shall be allotted ½ of 1 percent of the amount appropriated for the fiscal year for which the determination is made.

(ii) Guam and the Virgin Islands of the United States shall each be allotted ¼ of 1 percent of the amount appropriated for the fiscal year for which the determination is made.

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

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

(g) AVAILABILITY OF FUNDS.—

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

(2) FEDERAL SHARE.—

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

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

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

(42 U.S.C. 3030s–1)

SEC. 374. MAINTENANCE OF EFFORT.

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

(42 U.S.C. 3030s–2)

Subpart 2—National Innovation Programs

SEC. 375. INNOVATION GRANT PROGRAM.

(a) IN GENERAL.—The Assistant Secretary shall carry out a program for making grants on a competitive basis to foster the development and testing of new approaches to sustaining the efforts of families and other informal caregivers of older individuals, and to serving particular groups of caregivers of older individuals, in-

cluding low-income caregivers and geographically distant caregivers and linking family support programs with the State entity or agency that administers or funds programs for persons with mental retardation or related developmental disabilities and their families.

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

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

(42 U.S.C. 3030s–11)

SEC. 376. ACTIVITIES OF NATIONAL SIGNIFICANCE.

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

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

(42 U.S.C. 3030s–12)

[Title heading is needed. See footnote below.] [1]

SEC. 401. PURPOSES.

The purposes of this title are—

(1) to expand the Nation's knowledge and understanding of the older population and the aging process;

(2) to design, test, and promote the use of innovative ideas and best practices in programs and services for older individuals;

(3) to help meet the needs for trained personnel in the field of aging; and

(4) to increase awareness of citizens of all ages of the need to assume personal responsibility for their own longevity.

(42 U.S.C. 3031)

PART A—GRANT PROGRAMS

SEC. 411. PROGRAM AUTHORIZED.

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

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

(1) education and training to develop an adequately trained workforce to work with and on behalf of older individuals;

(2) applied social research and analysis to improve access to and delivery of services for older individuals;

(3) evaluation of the performance of the programs, activities, and services provided under this section;

(4) the development of methods and practices to improve the quality and effectiveness of the programs, services, and activities provided under this section;

(5) the demonstration of new approaches to design, deliver, and coordinate programs and services for older individuals;

(6) technical assistance in planning, developing, implementing, and improving the programs, services, and activities provided under this section;

(7) coordination with the designated State agency described in section 101(a)(2)(A)(i) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(2)(A)(i)) to provide services to older individuals who are blind as described in such Act;

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

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

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

(42 U.S.C. 3032)

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

(a) GRANTS.—The Assistant Secretary shall make grants to institutions of higher education, historically Black colleges or universities, Hispanic Centers of Excellence in Applied Gerontology, and other educational institutions that serve the needs of minority students, to provide education and training to prepare students for careers in the field of aging.

(b) DEFINITIONS.—For purposes of subsection (a):

(1) HISPANIC CENTER OF EXCELLENCE IN APPLIED GERONTOLOGY.—The term "Hispanic Center of Excellence in Applied Gerontology" means an institution of higher education with a program in applied gerontology that—

(A) has a significant number of Hispanic individuals enrolled in the program, including individuals accepted for enrollment in the program;

(B) has been effective in assisting Hispanic students of the program to complete the program and receive the degree involved;

(C) has been effective in recruiting Hispanic individuals to attend the program, including providing scholarships and other financial assistance to such individuals and encouraging Hispanic students of secondary educational institutions to attend the program; and

(D) has made significant recruitment efforts to increase the number and placement of Hispanic individuals

serving in faculty or administrative positions in the program.

(2) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term "historically Black college or university" has the meaning given the term "part B institution" in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

(42 U.S.C. 3032a)

SEC. 413. OLDER INDIVIDUALS' PROTECTION FROM VIOLENCE PROJECTS.

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

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

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

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

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

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

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

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

(42 U.S.C. 3032b)

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

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

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

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

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

(B) coordination and cooperation with—

(i) institutions of higher education having graduate programs with capability in public health, the medical sciences, psychology, pharmacology, nursing, social work, health education, nutrition, or gerontology, for the purpose of designing and developing such project; and

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

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

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

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

(B) in a State in which—

(i) not less than 33⅓ of the population resides in rural areas; and

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

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

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

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

(42 U.S.C. 3032c)

SEC. 415. COMPUTER TRAINING.

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

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

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

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

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

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

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

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

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

(42 U.S.C. 3032d)

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

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

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

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

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

(3) developing models and best practices for comprehensive integrated transportation services for older individuals, includ-

ing services administered by the Secretary of Transportation, by providing ongoing technical assistance to agencies providing services under title III and by assisting in coordination of public and community transportation services; and

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

(42 U.S.C. 3032e)

SEC. 417. DEMONSTRATION PROJECTS FOR MULTIGENERATIONAL ACTIVITIES.

(a) GRANTS AND CONTRACTS.—The Assistant Secretary may award grants and enter into contracts with eligible organizations to establish demonstration projects to provide older individuals with multigenerational activities.

(b) USE OF FUNDS.—An eligible organization shall use funds made available under a grant awarded, or a contract entered into, under subsection (a)—

(1) to carry out a demonstration project that provides multigenerational activities, including any professional training appropriate to such activities for older individuals; and

(2) to evaluate the project in accordance with subsection (f).

(c) PREFERENCE.—In awarding grants and entering into contracts under subsection (a), the Assistant Secretary shall give preference to—

(1) eligible organizations with a demonstrated record of carrying out multigenerational activities; and

(2) eligible organizations proposing projects that will serve older individuals with greatest economic need (with particular attention to low-income minority individuals and older individuals residing in rural areas).

(d) APPLICATION.—To be eligible to receive a grant or enter into a contract under subsection (a), an organization shall submit an application to the Assistant Secretary at such time, in such manner, and accompanied by such information as the Assistant Secretary may reasonably require.

(e) ELIGIBLE ORGANIZATIONS.—Organizations eligible to receive a grant or enter into a contract under subsection (a) shall be organizations that employ, or provide opportunities for, older individuals in multigenerational activities.

(f) LOCAL EVALUATION AND REPORT.—

(1) EVALUATION.—Each organization receiving a grant or a contract under subsection (a) to carry out a demonstration project shall evaluate the multigenerational activities assisted under the project to determine the effectiveness of the multigenerational activities, the impact of such activities on child care and youth day care programs, and the impact of such activities on older individuals involved in such project.

(2) REPORT.—The organization shall submit a report to the Assistant Secretary containing the evaluation not later than 6 months after the expiration of the period for which the grant or contract is in effect.

(g) REPORT TO CONGRESS.—Not later than 6 months after the Assistant Secretary receives the reports described in subsection (f)(2), the Assistant Secretary shall prepare and submit to the

Speaker of the House of Representatives and the President pro tempore of the Senate a report that assesses the evaluations and includes, at a minimum—

(1) the names or descriptive titles of the demonstration projects funded under subsection (a);

(2) a description of the nature and operation of the projects;

(3) the names and addresses of organizations that conducted the projects;

(4) a description of the methods and success of the projects in recruiting older individuals as employees and volunteers to participate in the projects;

(5) a description of the success of the projects in retaining older individuals involved in the projects as employees and as volunteers; and

(6) the rate of turnover of older individual employees and volunteers in the projects.

(h) DEFINITION.—As used in this section, the term "multigenerational activity" includes an opportunity to serve as a mentor or adviser in a child care program, a youth day care program, an educational assistance program, an at-risk youth intervention program, a juvenile delinquency treatment program, or a family support program.

(42 U.S.C. 3032f)

SEC. 418. NATIVE AMERICAN PROGRAMS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Assistant Secretary shall make grants or enter into contracts with not fewer than two and not more than four eligible entities to establish and operate Resource Centers on Native American Elders (referred to in this section as "Resource Centers"). The Assistant Secretary shall make such grants or enter into such contracts for periods of not less than 3 years.

(2) FUNCTIONS.—

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

(i) gather information;

(ii) perform research;

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

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

(B) AREAS OF CONCERN.—In conducting the functions described in subparagraph (A), a Resource Center shall focus on priority areas of concern for the Resource Centers regarding Native Americans who are older individuals, which areas shall be—

(i) health problems;

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

(iii) elder abuse; and

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

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

(4) CONSULTATION.—In determining the type of information to be sought from, and activities to be performed by, Resource Centers, the Assistant Secretary shall consult with the Director of the Office for American Indian, Alaskan Native, and Native Hawaiian Aging and with national organizations with special expertise in serving Native Americans who are older individuals.

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

(6) REPORT TO CONGRESS.—The Assistant Secretary, with assistance from each Resource Center, shall prepare and submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an annual report on the status and needs, including the priority areas of concern, of Native Americans who are older individuals.

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

(42 U.S.C. 3032g)

SEC. 419. MULTIDISCIPLINARY CENTERS.

(a) PROGRAM AUTHORIZED.—The Assistant Secretary may make grants to public and private nonprofit agencies, organizations, and institutions for the purpose of establishing or supporting multidisciplinary centers of gerontology, and gerontology centers of special emphasis (including emphasis on nutrition, employment, health (including mental health), disabilities (including severe disabilities), income maintenance, counseling services, supportive services, minority populations, and older individuals residing in rural areas).

(b) USE OF FUNDS.—

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

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

(A) recruit and train personnel;

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

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

(D) help to develop training programs in the field of aging at schools of public health, education, social work,

and psychology, and other appropriate schools within colleges and universities;

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

(F) provide consultation and information to public and voluntary organizations, including State agencies and area agencies on aging, which serve the needs of older individuals in planning and developing services provided under other provisions of this Act; and

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

(c) DATA.—

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

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

(A) information on the number of personnel trained;

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

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

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

(42 U.S.C. 3032h)

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

(a) PROGRAM AUTHORIZED.—The Assistant Secretary shall make grants and enter into contracts, in order to—

(1) provide a national legal assistance support system (operated by one or more grantees or contractors) of activities to State and area agencies on aging for providing, developing, or supporting legal assistance for older individuals, including—

(A) case consultations;

(B) training;

(C) provision of substantive legal advice and assistance; and

(D) assistance in the design, implementation, and administration of legal assistance delivery systems to local providers of legal assistance for older individuals; and

(2) support demonstration projects to expand or improve the delivery of legal assistance to older individuals with social or economic needs.

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

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

(42 U.S.C. 3032i)

SEC. 421. OMBUDSMAN AND ADVOCACY DEMONSTRATION PROJECTS.

(a) PROGRAM AUTHORIZED.—The Assistant Secretary shall award grants to not fewer than three and not more than 10 States to conduct demonstrations and evaluate cooperative projects between the State long-term care ombudsman program, legal assistance agencies, and the State protection and advocacy systems for individuals with developmental disabilities and individuals with mental illness, established under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.).

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

(42 U.S.C. 3032j)

PART B—GENERAL PROVISIONS

SEC. 431. PAYMENT OF GRANTS.

(a) CONTRIBUTIONS.—To the extent the Assistant Secretary determines a contribution to be appropriate, the Assistant Secretary shall require the recipient of any grant or contract under this title to contribute money, facilities, or services for carrying out the project for which such grant or contract was made.

(b) PAYMENTS.—Payments under this title pursuant to a grant or contract may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Assistant Secretary may determine.

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

(1) consults with the State agency prior to issuing the grant or contract; and

(2) informs the State agency of the purposes of the grant or contract when the grant or contract is issued.

(42 U.S.C. 3033)

SEC. 432. RESPONSIBILITIES OF ASSISTANT SECRETARY.

(a) IN GENERAL.—The Assistant Secretary shall be responsible for the administration, implementation, and making of grants and contracts under this title and shall not delegate authority under this title to any other individual, agency, or organization.

(b) REPORT.—

(1) IN GENERAL.—Not later than January 1 following each fiscal year, the Assistant Secretary shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report for such fiscal year that describes each project and each program—

(A) for which funds were provided under this title; and

(B) that was completed in the fiscal year for which such report is prepared.

(2) CONTENTS.—Such report shall contain—

(A) the name or descriptive title of each project or program;

(B) the name and address of the individual or governmental entity that conducted such project or program;

(C) a specification of the period throughout which such project or program was conducted;

(D) the identity of each source of funds expended to carry out such project or program and the amount of funds provided by each such source;

(E) an abstract describing the nature and operation of such project or program; and

(F) a bibliography identifying all published information relating to such project or program.

(c) EVALUATIONS.—

(1) IN GENERAL.—The Assistant Secretary shall establish by regulation and implement a process to evaluate the results of projects and programs carried out under this title.

(2) RESULTS.—The Assistant Secretary shall—

(A) make available to the public the results of each evaluation carried out under paragraph (1); and

(B) use such evaluation to improve services delivered, or the operation of projects and programs carried out, under this Act.

(42 U.S.C. 3033a)

TITLE V—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS [1]

SEC. 501. SHORT TITLE.

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

(42 U.S.C. 3056 note)

SEC. 502. OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM.

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

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

(b)(1) In order to carry out the provisions of this title, the Secretary is authorized to enter into agreements, subject to section

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

514, with State and national public and private nonprofit agencies and organizations, agencies of a State government or a political subdivision of a State (having elected or duly appointed governing officials), or a combination of such political subdivisions, or tribal organizations in order to further the purposes and goals of the program. Such agreements may include provisions for the payment of costs, as provided in subsection (c) of this section, of projects developed by such organizations and agencies in cooperation with the Secretary in order to make the program effective or to supplement the program. No payment shall be made by the Secretary toward the cost of any project established or administered by any organization or agency unless the Secretary determines that such project—

(A) will provide employment only for eligible individuals except for necessary technical, administrative, and supervisory personnel, but such personnel shall, to the fullest extent possible, be recruited from among eligible individuals;

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

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

(C) will employ eligible individuals in service related to publicly owned and operated facilities and projects, or projects sponsored by organizations, other than political parties, exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986, except projects involving the construction, operation, or maintenance of any facility used or to be used as a place for sectarian religious instruction or worship;

(D) will contribute to the general welfare of the community;

(E) will provide employment for eligible individuals;

(F)(i) will result in an increase in employment opportunities over those opportunities which would otherwise be available;

(ii) will not result in the displacement of currently employed workers (including partial displacement, such as a reduction in the hours of nonovertime work or wages or employment benefits); and

(iii) will not impair existing contracts or result in the substitution of Federal funds for other funds in connection with work that would otherwise be performed;

(G) will not employ or continue to employ any eligible individual to perform work the same or substantially the same as that performed by any other person who is on layoff;

(H) will utilize methods of recruitment and selection (including participating in a one-stop delivery system as established under section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c)) and listing of job vacancies with the employment agency operated by any State or political subdivi-

sion thereof) which will assure that the maximum number of eligible individuals will have an opportunity to participate in the project;

(I) will include such training as may be necessary to make the most effective use of the skills and talents of those individuals who are participating, and will provide for the payment of the reasonable expenses of individuals being trained, including a reasonable subsistence allowance;

(J) will assure that safe and healthy conditions of work will be provided, and will assure that persons employed in community service and other jobs assisted under this title shall be paid wages which shall not be lower than whichever is the highest of—

(i) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the participant and if the participant were not exempt under section 13 thereof;

(ii) the State or local minimum wage for the most nearly comparable covered employment; or

(iii) the prevailing rates of pay for persons employed in similar public occupations by the same employer;

(K) will be established or administered with the advice of persons competent in the field of service in which employment is being provided, and of persons who are knowledgeable with regard to the needs of older persons;

(L) will authorize pay for necessary transportation costs of eligible individuals which may be incurred in employment in any project funded under this title, in accordance with regulations promulgated by the Secretary;

(M) will assure that, to the extent feasible, such project will serve the needs of minority, limited English-speaking, and Indian eligible individuals, and eligible individuals who have the greatest economic need, at least in proportion to their numbers in the State and take into consideration their rates of poverty and unemployment;

(N)(i) will prepare an assessment of the participants' skills and talents and their needs for services, except to the extent such project has, for the participant involved, recently prepared an assessment of such skills and talents, and such needs, pursuant to another employment or training program (such as a program under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.), or part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.));

(ii) will provide to eligible individuals training and employment counseling based on strategies that identify appropriate employment objectives and the need for supportive services, developed as a result of the assessment and service strategy provided for in clause (i); and

(iii) will provide counseling to participants on their progress in meeting such objectives and satisfying their need for supportive services;

(O) will provide appropriate services for participants through the one-stop delivery system as established under section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c)), and will be involved in the planning and operations of such system pursuant to a memorandum of understanding with the local workforce investment board in accordance with section 121(c) of such Act (29 U.S.C. 2841(c));

(P) will post in such project workplace a notice, and will make available to each person associated with such project a written explanation, clarifying the law with respect to allowable and unallowable political activities under chapter 15 of title 5, United States Code, applicable to the project and to each category of individuals associated with such project and containing the address and telephone number of the Inspector General of the Department of Labor, to whom questions regarding the application of such chapter may be addressed;

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

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

(2) The Secretary is authorized to establish, issue, and amend such regulations as may be necessary to effectively carry out the provisions of this title.

(3) The Secretary shall develop alternatives for innovative work modes and provide technical assistance in creating job opportunities through work sharing and other experimental methods to labor organizations, groups representing business and industry and workers as well as to individual employers, where appropriate.

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

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

(c)(1) The Secretary is authorized to pay a share, but not to exceed 90 percent of the cost of any project which is the subject of an agreement entered into under subsection (b) of this section, except that the Secretary is authorized to pay all of the costs of any such project which is—

(A) an emergency or disaster project; or

(B) a project located in an economically depressed area,

as determined by the Secretary in consultation with the Secretary of Commerce and the Secretary of Health and Human Services.

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

(3) Of the amount for any project to be paid by the Secretary under this subsection, not more than 13.5 percent for any fiscal year shall be available for paying the costs of administration for such project, except that—

(A) whenever the Secretary determines that it is necessary to carry out the project assisted under this title, based on information submitted by the grantee with which the Secretary has an agreement under subsection (b), the Secretary may increase the amount available for paying the cost of administration to an amount not more than 15 percent of the cost of such project; and

(B) whenever the grantee with which the Secretary has an agreement under subsection (b) demonstrates to the Secretary that—

(i) major administrative cost increases are being incurred in necessary program components, including liability insurance, payments for workers' compensation, costs associated with achieving unsubsidized placement goals, and other operation requirements imposed by the Secretary;

(ii) the number of employment positions in the project or the number of minority eligible individuals participating in the project will decline if the amount available for paying the cost of administration is not increased; or

(iii) the size of the project is so small that the amount of administrative expenses incurred to carry out the project necessarily exceeds 13.5 percent of the amount for such project,

the Secretary shall increase the amount available for the fiscal year for paying the cost of administration to an amount not more than 15 percent of the cost of such project.

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

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

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

(ii) procurement and purchasing functions;

(iii) property management functions;

(iv) personnel management functions;

(v) payroll functions;

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

(vii) audit functions;

(viii) general legal services functions; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Whenever a grantee conducts a project within a planning and service area in a State, such grantee shall conduct such project in consultation with the area agency on aging of the planning and service area and shall submit to the State agency and the area agency on aging a description of such project to be conducted in the State, including the location of the project, 90 days prior to undertaking the project, for review and public comment according to guidelines the Secretary shall issue to assure efficient and effective coordination of programs under this title.

(e)(1) The Secretary, in addition to any other authority contained in this title, shall conduct projects designed to assure second career training and the placement of eligible individuals in employment opportunities with private business concerns. The Secretary shall enter into such agreements with States, public agencies, nonprofit private organizations, and private business concerns as may be necessary, to conduct the projects authorized by this subsection to assure that placement and training. The Secretary, from amounts reserved under section 506(a)(1) in any fiscal year, may pay all of the costs of any agreements entered into under the provisions of this subsection. The Secretary shall, to the extent feasible, assure equitable geographic distribution of projects authorized by this subsection.

(2) The Secretary shall issue, and amend from time to time, criteria designed to assure that agreements entered into under paragraph (1) of this subsection—

(A) will involve different kinds of work modes, such as flextime, job sharing, and other arrangements relating to reduced physical exertion;

(B) will emphasize projects involving second careers and job placement and give consideration to placement in growth industries in jobs reflecting new technological skills; and

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

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

(42 U.S.C. 3056)

SEC. 503. ADMINISTRATION.

(a) STATE SENIOR EMPLOYMENT SERVICES COORDINATION PLAN.—

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

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

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

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

(C) individuals representing social service organizations providing services to older individuals, grantees under title III of this Act, affected communities, underserved older individuals, community-based organizations

serving the needs of older individuals, business organizations, and labor organizations.

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

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

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

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

(C) the relative distribution of—

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

(ii) eligible individuals who are minority individuals; and

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

(e) The Secretary shall not delegate any function of the Secretary under this title to any other department or agency of the Federal Government.

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

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

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

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

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

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

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

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

(42 U.S.C. 3056a)

SEC. 504. PARTICIPANTS NOT FEDERAL EMPLOYEES.

(a) Eligible individuals who are employed in any project funded under this title shall not be considered to be Federal employees as a result of such employment and shall not be subject to the provisions of part III of title 5, United States Code.

(b) No contract shall be entered into under this title with a contractor who is, or whose employees are, under State law, exempted from operation of the State workmen's compensation law, generally applicable to employees, unless the contractor shall undertake to provide either through insurance by a recognized carrier or by self-insurance, as authorized by State law, that the persons employed under the contract shall enjoy workmen's compensation coverage equal to that provided by law for covered employment.

(42 U.S.C. 3056b)

SEC. 505. INTERAGENCY COOPERATION.

(a) The Secretary shall consult with, and obtain the written views of, the Assistant Secretary for Aging in the Department of Health and Human Services prior to the establishment of rules or the establishment of general policy in the administration of this title.

(b) The Secretary shall consult and cooperate with the Director of the Office of Community Services, the Secretary of Health and Human Services, and the heads of other Federal agencies carrying out related programs, in order to achieve optimal coordination with such other programs. In carrying out the provisions of this section, the Secretary shall promote programs or projects of a similar nature. Each Federal agency shall cooperate with the Secretary in disseminating information relating to the availability of assistance under this title and in promoting the identification and interests of individuals eligible for employment in projects assisted under this title.

(c)(1) The Secretary shall promote and coordinate carrying out projects under this title jointly with programs, projects, or activities under other Acts, especially activities provided under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), including activities provided through one-stop delivery systems established under section 134(c) of such Act (29 U.S.C. 2864(c)), that provide training and employment opportunities to eligible individuals.

(2) The Secretary shall consult with the Secretary of Education to promote and coordinate carrying out projects under this title jointly with workforce investment activities in which eligible individuals may participate that are carried out under the Carl D. Perkins Vocational and Technical Education Act of 1998.

(42 U.S.C. 3056c)

SEC. 506. DISTRIBUTION OF ASSISTANCE.

(a) RESERVATIONS.—

(1) RESERVATION FOR PRIVATE EMPLOYMENT PROJECTS.—From sums appropriated under this title for each fiscal year, the Secretary shall first reserve not more than 1.5 percent of the total amount of such sums for the purpose of entering into agreements under section 502(e), relating to improved transition to private employment.

(2) RESERVATION FOR TERRITORIES.—From sums appropriated under this title for each fiscal year, the Secretary shall

reserve 0.75 percent of the total amount of such sums, of which—

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

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

(3) RESERVATION FOR ORGANIZATIONS.—The Secretary shall reserve such sums as may be necessary for national grants with public or nonprofit national Indian aging organizations with the ability to provide employment services to older Indians and with national public or nonprofit Pacific Island and Asian American aging organizations with the ability to provide employment to older Pacific Island and Asian Americans.

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

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

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

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

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

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

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

over in the State and the allotment percentage of such State bears to the sum of the corresponding product for all States, except as follows:

(1) MINIMUM ALLOTMENT.—No State shall be provided an amount under this subsection that is less than ½ of 1 percent of the amount provided under subsection (c) for public and private nonprofit agency and organization grantees that operate under this title under national grants from the Secretary in all of the States.

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

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

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

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

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

(1) MINIMUM ALLOTMENT.—No State shall be provided an amount under this subsection that is less than ½ of 1 percent of the amount provided under subsection (c) for State grantees in all of the States.

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

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

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

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

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

(1) the allotment percentage of each State shall be 100 percent less that percentage which bears the same ratio to 50 percent as the per capita income of such State bears to the per capita income of the United States, except that: (A) the allotment percentage shall in no case be more than 75 percent or less than 33 percent; and (B) the allotment percentage for the District of Columbia and the Commonwealth of Puerto Rico shall be 75 percent;

(2) the number of persons aged 55 or over in any State and in all States, and the per capita income in any State and in all States, shall be determined by the Secretary on the basis of the most satisfactory data available to the Secretary; and

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

(g) DEFINITIONS.—In this section:

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

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

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

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

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

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

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

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

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

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

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

(42 U.S.C. 3056d)

SEC. 507. EQUITABLE DISTRIBUTION.

(a) INTERSTATE ALLOCATION.—The Secretary, in awarding grants and contracts under section 506, shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts, in the aggregate, among the States, taking into account the needs of underserved States.

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

(42 U.S.C. 3056e)

SEC. 508. REPORT.

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

(42 U.S.C. 3056f)

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

Funds received by eligible individuals from projects carried out under the program established in this title shall not be considered to be income of such individuals for purposes of determining the eligibility of such individuals, or of any other persons, to participate in any housing program for which Federal funds may be available or for any income determination under the Food Stamp Act of 1977.

(42 U.S.C. 3056g)

SEC. 510. ELIGIBILITY FOR WORKFORCE INVESTMENT ACTIVITIES.

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

(42 U.S.C. 3056h)

SEC. 511. TREATMENT OF ASSISTANCE.

Assistance furnished under this title shall not be construed to be financial assistance described in section 245A(h)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1255A(h)(1)(A)).

(42 U.S.C. 3056i)

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

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

workforce investment areas, and shall carry out the responsibilities relating to such partners.

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

(42 U.S.C. 3056j)

SEC. 513. PERFORMANCE.

(a) MEASURES.—

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

(2) CONTENT.—

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

(B) ADJUSTMENT.—The levels of performance described in subparagraph (A) applicable to a grantee shall be adjusted only with respect to the following factors:

(i) High rates of unemployment, poverty, or welfare recipiency in the areas served by a grantee, relative to other areas of the State or Nation.

(ii) Significant downturns in the areas served by the grantee or in the national economy.

(iii) Significant numbers or proportions of enrollees with one or more barriers to employment served by a grantee relative to grantees serving other areas of the State or Nation.

(C) PLACEMENT.—For all grantees, the Secretary shall establish a measure of performance of not less than 20 percent (adjusted in accordance with subparagraph (B)) for placement of enrollees into unsubsidized public or private employment as defined in subsection (c)(2).

(3) PERFORMANCE EVALUATION OF PUBLIC OR PRIVATE NONPROFIT AGENCIES AND ORGANIZATIONS.—The Secretary shall annually establish national performance measures for each public or private nonprofit agency or organization that is a grantee under this title, which shall be applicable to the grantee without regard to whether such grantee operates the program directly or through contracts, grants, or agreements with other entities. The performance of the grantees with respect to such measures shall be evaluated in accordance with section 514(e)(1) regarding performance of the grantees on a national basis, and in accordance with section 514(e)(3) regarding the performance of the grantees in each State.

(4) PERFORMANCE EVALUATION OF STATES.—The Secretary shall annually establish performance measures for each State that is a grantee under this title, which shall be applicable to the State grantee without regard to whether such grantee operates the program directly or through contracts, grants, or agreements with other entities. The performance of the State grantees with respect to such measures shall be evaluated in accordance with section 514(f).

(5) LIMITATION.—An agreement to be evaluated on the performance measures shall be a requirement for application for, and a condition of, all grants authorized by this title.

(b) REQUIRED INDICATORS.—The indicators described in subsection (a) shall include—

(1) the number of persons served, with particular consideration given to individuals with greatest economic need, greatest social need, or poor employment history or prospects, and individuals who are over the age of 60;

(2) community services provided;

(3) placement into and retention in unsubsidized public or private employment;

(4) satisfaction of the enrollees, employers, and their host agencies with their experiences and the services provided; and

(5) any additional indicators of performance that the Secretary determines to be appropriate to evaluate services and performance.

(c) DEFINITIONS OF INDICATORS.—

(1) IN GENERAL.—The Secretary, after consultation with national and State grantees, representatives of business and labor organizations, and providers of services, shall, by regulation, issue definitions of the indicators of performance described in subsection (b).

(2) DEFINITIONS OF CERTAIN TERMS.—In this section:

(A) PLACEMENT INTO PUBLIC OR PRIVATE UNSUBSIDIZED EMPLOYMENT.—The term "placement into public or private unsubsidized employment" means full- or part-time paid employment in the public or private sector by an enrollee under this title for 30 days within a 90-day period without the use of funds under this title or any other Federal or State employment subsidy program, or the equivalent of such employment as measured by the earnings of an enrollee through the use of wage records or other appropriate methods.

(B) RETENTION IN PUBLIC OR PRIVATE UNSUBSIDIZED EMPLOYMENT.—The term "retention in public or private unsubsidized employment" means full- or part-time paid employment in the public or private sector by an enrollee under this title for 6 months after the starting date of placement into unsubsidized employment without the use of funds under this title or any other Federal or State employment subsidy program.

(d) CORRECTIVE EFFORTS.—A State or other grantee that does not achieve the established levels of performance on the performance measures shall submit to the Secretary, for approval, a plan of correction as described in subsection (e) or (f) of section 514 to achieve the established levels of performance.

(42 U.S.C. 3056k)

SEC. 514. COMPETITIVE REQUIREMENTS RELATING TO GRANT AWARDS.

(a) PROGRAM AUTHORIZED.—In accordance with section 502(b), the Secretary shall award grants to eligible applicants to carry out projects under this title for a period of 1 year, except that, after the promulgation of regulations for this title and the establishment of the performance measures required by section 513(a), the Secretary shall award grants for a period of not to exceed 3 years.

(b) ELIGIBLE APPLICANTS.—An applicant shall be eligible to receive a grant under subsection (a) in accordance with section 502(b)(1), and subsections (c) and (d).

(c) CRITERIA.—The Secretary shall select the eligible applicants to receive grants under subsection (a) based on the following:

(1) The applicant's ability to administer a program that serves the greatest number of eligible individuals, giving particular consideration to individuals with greatest economic need, greatest social need, poor employment history or prospects, and over the age of 60.

(2) The applicant's ability to administer a program that provides employment for eligible individuals in the communities in which such individuals reside, or in nearby communities, that will contribute to the general welfare of the community.

(3) The applicant's ability to administer a program that moves eligible individuals into unsubsidized employment.

(4) The applicant's ability to move individuals with multiple barriers to employment into unsubsidized employment.

(5) The applicant's ability to coordinate with other organizations at the State and local level.

(6) The applicant's plan for fiscal management of the program to be administered with funds received under this section.

(7) Any additional criteria that the Secretary deems appropriate in order to minimize disruption for current enrollees.

(d) RESPONSIBILITY TESTS.—

(1) IN GENERAL.—Before final selection of a grantee, the Secretary shall conduct a review of available records to assess the applicant's overall responsibility to administer Federal funds.

(2) REVIEW.—As part of the review described in paragraph (1), the Secretary may consider any information, including the organization's history with regard to the management of other grants.

(3) FAILURE TO SATISFY TEST.—The failure to satisfy any one responsibility test that is listed in paragraph (4), except for those listed in subparagraphs (A) and (B) of such paragraph, does not establish that the organization is not responsible unless such failure is substantial or persistent (for 2 or more consecutive years).

(4) TEST.—The responsibility tests include review of the following factors:

(A) Efforts by the organization to recover debts, after three demand letters have been sent, that are established by final agency action and have been unsuccessful, or that

there has been failure to comply with an approved repayment plan.

(B) Established fraud or criminal activity of a significant nature within the organization.

(C) Serious administrative deficiencies identified by the Secretary, such as failure to maintain a financial management system as required by Federal regulations.

(D) Willful obstruction of the audit process.

(E) Failure to provide services to applicants as agreed to in a current or recent grant or to meet applicable performance measures.

(F) Failure to correct deficiencies brought to the grantee's attention in writing as a result of monitoring activities, reviews, assessments, or other activities.

(G) Failure to return a grant closeout package or outstanding advances within 90 days of the grant expiration date or receipt of closeout package, whichever is later, unless an extension has been requested and granted.

(H) Failure to submit required reports.

(I) Failure to properly report and dispose of Government property as instructed by the Secretary.

(J) Failure to have maintained effective cash management or cost controls resulting in excess cash on hand.

(K) Failure to ensure that a subrecipient complies with its Office of Management and Budget Circular A–133 audit requirements specified at section 667.200(b) of title 20, Code of Federal Regulations.

(L) Failure to audit a subrecipient within the required period.

(M) Final disallowed costs in excess of 5 percent of the grant or contract award if, in the judgment of the grant officer, the disallowances are egregious findings.

(N) Failure to establish a mechanism to resolve a subrecipient's audit in a timely fashion.

(5) DETERMINATION.—Applicants that are determined to be not responsible shall not be selected as grantees.

(6) DISALLOWED COSTS.—Interest on disallowed costs shall accrue in accordance with the Debt Collection Improvement Act of 1996.

(e) NATIONAL PERFORMANCE MEASURES AND COMPETITION FOR PUBLIC AND PRIVATE NONPROFIT AGENCIES AND ORGANIZATIONS.—

(1) IN GENERAL.—Not later than 120 days after the end of each program year, the Secretary shall determine if each public or private nonprofit agency or organization that is a grantee has met the national performance measures established pursuant to section 513(a)(3).

(2) TECHNICAL ASSISTANCE AND CORRECTIVE ACTION PLAN.—

(A) IN GENERAL.—If the Secretary determines that a grantee fails to meet the national performance measures for a program year, the Secretary shall provide technical assistance and require such organization to submit a corrective action plan not later than 160 days after the end of the program year.

(B) CONTENT.—The plan submitted under subparagraph (A) shall detail the steps the grantee will take to meet the national performance measures in the next program year.

(C) AFTER SECOND YEAR OF FAILURE.—If a grantee fails to meet the national performance measures for a second consecutive program year, the Secretary shall conduct a national competition to award, for the first full program year following the determination (minimizing, to the extent possible, the disruption of services provided to enrollees), an amount equal to 25 percent of the funds awarded to the grantee for such year.

(D) COMPETITION AFTER THIRD CONSECUTIVE YEAR OF FAILURE.—If a grantee fails to meet the national performance measures for a third consecutive program year, the Secretary shall conduct a national competition to award the amount of the grant remaining after deduction of the portion specified in subparagraph (C) for the first full program year following the determination. The eligible applicant that receives the grant through the national competition shall continue service to the geographic areas formerly served by the grantee that previously received the grant.

(3) COMPETITION REQUIREMENTS FOR PUBLIC AND PRIVATE NONPROFIT AGENCIES AND ORGANIZATIONS IN A STATE.—

(A) IN GENERAL.—In addition to the actions required under paragraph (2), the Secretary shall take corrective action if the Secretary determines at the end of any program year that, despite meeting the established national performance measures, a public or private nonprofit agency or organization that is a grantee has attained levels of performance 20 percent or more below the national performance measures with respect to the project carried out in a State and has failed to meet the performance measures as established by the Secretary for the State grantee in such State, and there are not factors, such as the factors described in section 513(a)(2)(B), or size of the project, that justify the performance.

(B) FIRST YEAR OF FAILURE.—After the first program year of failure to meet the performance criteria described in subparagraph (A), the Secretary shall require a corrective action plan, and may require the transfer of the responsibility for the project to other grantees, provide technical assistance, and take other appropriate actions.

(C) SECOND YEAR OF FAILURE.—After the second consecutive program year of failure to meet the performance criteria described in subparagraph (A), the corrective actions to be taken by the Secretary may include the transfer of the responsibility for a portion or all of the project to a State or public or private nonprofit agency or organization, or a competition for a portion or all of the funds to carry out such project among all eligible entities that meet the responsibility tests under section 514(d) except for the grantee that is the subject of the corrective action.

(D) THIRD YEAR OF FAILURE.—After the third consecutive program year of failure to meet the performance cri-

teria described in subparagraph (A), the Secretary shall conduct a competition for the funds to carry out such project among all eligible entities that meet the responsibility tests under section 514(d) except for the grantee that is the subject of the corrective action.

(4) REQUEST BY GOVERNOR.—Upon the request of the Governor of a State for a review of the performance of a public or private nonprofit agency or organization within the State, the Secretary shall undertake such a review in accordance with the criteria described in paragraph (3)(A). If the performance of such grantee is not justified under such criteria, the Secretary shall take corrective action in accordance with paragraph (3).

(f) PERFORMANCE MEASURES AND COMPETITION FOR STATES.—

(1) IN GENERAL.—Not later than 120 days after the end of the program year, the Secretary shall determine if a State grantee has met the performance measures established pursuant to section 513(a)(4).

(2) TECHNICAL ASSISTANCE AND CORRECTIVE ACTION PLAN.—If a State that receives a grant fails to meet the performance measures for a program year, the Secretary shall provide technical assistance and require the State to submit a corrective action plan not later than 160 days after the end of the program year.

(3) CONTENT.—The plan described in paragraph (2) shall detail the steps the State will take to meet the standards.

(4) FAILURE TO MEET PERFORMANCE MEASURES FOR SECOND AND THIRD YEARS.—

(A) AFTER SECOND YEAR OF FAILURE.—If a State fails to meet the performance measures for a second consecutive program year, the Secretary shall provide for the conduct by the State of a competition to award, for the first full program year following the determination (minimizing, to the extent possible, the disruption of services provided to enrollees), an amount equal to 25 percent of the funds available to the State for such year.

(B) AFTER THIRD YEAR OF FAILURE.—If the State fails to meet the performance measures for a third consecutive program year, the Secretary shall provide for the conduct by the State of a competition to award the funds allocated to the State for the first full program year following the Secretary's determination that the State has not met the performance measures.

(42 U.S.C. 3056l)

SEC. 515. AUTHORIZATION OF APPROPRIATIONS.

(a) There is authorized to be appropriated to carry out this title—

(1) $475,000,000 for fiscal year 2001 and such sums as may be necessary for fiscal year 2002 through 2005; and

(2) such additional sums as may be necessary for each such fiscal year to enable the Secretary, through programs under this title, to provide for at least 70,000 part-time employment positions for eligible individuals.

For purposes of paragraph (2), "part-time employment position" means an employment position within a workweek of at least 20 hours.

(b) Amounts appropriated under this section for any fiscal year shall be available for obligation during the annual period which begins on July 1 of the calendar year immediately following the beginning of such fiscal year and which ends on June 30 of the following calendar year. The Secretary may extend the period during which such amounts may be obligated or expended in the case of a particular organization or agency receiving funds under this title if the Secretary determines that such extension is necessary to ensure the effective use of such funds by such organization or agency.

(c) At the end of the program year, the Secretary may recapture any unexpended funds for the program year, and reobligate such funds within the 2 succeeding program years for—

(1) incentive grants;

(2) technical assistance; or

(3) grants or contracts for any other program under this title.

(42 U.S.C. 3056m)

SEC. 516. DEFINITIONS.

In this title:

(1) COMMUNITY SERVICE.—The term "community service" means social, health, welfare, and educational services (including literacy tutoring), legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services; conservation, maintenance, or restoration of natural resources; community betterment or beautification; antipollution and environmental quality efforts; weatherization activities; economic development; and such other services essential and necessary to the community as the Secretary, by regulation, may prescribe.

(2) ELIGIBLE INDIVIDUALS.—The term "eligible individuals" means an individual who is 55 years old or older, who has a low income (including any such individual whose income is not more than 125 percent of the poverty guidelines established by the Office of Management and Budget), except that, pursuant to regulations prescribed by the Secretary, any such individual who is 60 years old or older shall have priority for the work opportunities provided for under this title.

(3) PACIFIC ISLAND AND ASIAN AMERICANS.—The term "Pacific Island and Asian Americans" means Americans having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands.

(4) PROGRAM.—The term "program" means the older American community service employment program established under this title.

(42 U.S.C. 3056n)

TITLE VI—GRANTS FOR NATIVE AMERICANS

STATEMENT OF PURPOSE

SEC. 601. It is the purpose of this title to promote the delivery of supportive services, including nutrition services to American Indians, Alaskan Natives, and Native Hawaiians that are comparable to services provided under title III.

(42 U.S.C. 3057)

SENSE OF CONGRESS

SEC. 602. It is the sense of the Congress that older individuals who are Indians, older individuals who are Alaskan Natives, and older individuals who are Native Hawaiians are a vital resource entitled to all benefits and services available and that such services and benefits should be provided in a manner that preserves and restores their respective dignity, self-respect, and cultural identities.

(42 U.S.C. 3057a)

PART A—INDIAN PROGRAM

FINDINGS

SEC. 611. (a)[1] The Congress finds that the older individuals who are Indians of the United States—

(1) are a rapidly increasing population;

(2) suffer from high unemployment;

(3) live in poverty at a rate estimated to be as high as 61 percent;

(4) have a life expectancy between 3 and 4 years less than the general population;

(5) lack sufficient nursing homes, other long-term care facilities, and other health care facilities;

(6) lack sufficient Indian area agencies on aging;

(7) frequently live in substandard and over-crowded housing;

(8) receive less than adequate health care;

(9) are served under this title at a rate of less than 19 percent of the total national population of older individuals who are Indians living on Indian reservations; and

(10) are served under title III at a rate of less than 1 percent of the total participants under that title.

(42 U.S.C. 3057b)

ELIGIBILITY

SEC. 612. (a) A tribal organization of an Indian tribe is eligible for assistance under this part only if—

(1) the tribal organization represents at least 50 individuals who are 60 years of age or older; and

(2) the tribal organization demonstrates the ability to deliver supportive services, including nutritional services.

(b) An Indian tribe represented by an organization specified in subsection (a) shall be eligible for only one grant under this part for any fiscal year. Nothing in this subsection shall preclude an In-

[1] Error in amendment made by section 171 of Public Law 100–175. Should strike "(a)".

dian tribe represented by an organization specified in subsection (a) from receiving a grant under section 631.

(c) For the purposes of this part the terms "Indian tribe" and "tribal organization" have the same meaning as in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(42 U.S.C. 3057c)

GRANTS AUTHORIZED

SEC. 613. The Assistant Secretary may make grants to eligible tribal organizations to pay all of the costs for delivery of supportive services and nutrition services for older individuals who are Indians.

(42 U.S.C. 3057d)

APPLICATIONS

SEC. 614. (a) No grant may be made under this part unless the eligible tribal organization submits an application to the Assistant Secretary which meets such criteria as the Assistant Secretary may by regulation prescribe. Each such application shall—

(1) provide that the eligible tribal organization will evaluate the need for supportive and nutrition services among older individuals who are Indians to be represented by the tribal organizations;

(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

(3) provide that the tribal organization will make such reports in such form and containing such information, as the Assistant Secretary may reasonably require, and comply with such requirements as the Assistant Secretary may impose to assure the correctness of such reports;

(4) provide for periodic evaluation of activities and projects carried out under the application;

(5) establish objectives consistent with the purposes of this part toward which activities under the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the tribal organization proposes to overcome such obstacles;

(6) provide for establishing and maintaining information and assistance services to assure that older individuals who are Indians to be served by the assistance made available under this part will have reasonably convenient access to such services;

(7) provide a preference for older individuals who are Indians for full or part-time staff positions whenever feasible;

(8) provide assistance that either directly or by way of grant or contract with appropriate entities nutrition services will be delivered to older individuals who are Indians represented by the tribal organization substantially in compliance with the provisions of part C of title III, except that in any case in which the need for nutritional services for older individuals who are Indians represented by the tribal organization is already met from other sources, the tribal organization may

use the funds otherwise required to be expended under this paragraph for supportive services;

(9) provide that any legal or ombudsman services made available to older individuals who are Indians represented by the tribal organization will be substantially in compliance with the provisions of title III relating to the furnishing of similar services;

(10) provide satisfactory assurance that fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the tribal organization, including any funds paid by the tribal organization to a recipient of a grant or contract; and

(11) contain assurances that the tribal organization will coordinate services provided under this part with services provided under title III in the same geographical area.

(b) For the purpose of any application submitted under this part, the tribal organization may develop its own population statistics, with approval from the Bureau of Indian Affairs, in order to establish eligibility.

(c)(1) The Assistant Secretary shall approve any application which complies with the provisions of subsection (a).

(2) The Assistant Secretary shall provide waivers and exemptions of the reporting requirements of subsection (a)(3) for applicants that serve Indian populations in geographically isolated areas, or applicants that serve small Indian populations, where the small scale of the project, the nature of the applicant, or other factors make the reporting requirements unreasonable under the circumstances. The Assistant Secretary shall consult with such applicants in establishing appropriate waivers and exemptions.

(3) The Assistant Secretary shall approve any application that complies with the provisions of subsection (a), except that in determining whether an application complies with the requirements of subsection (a)(8), the Assistant Secretary shall provide maximum flexibility to an applicant that seeks to take into account subsistence needs, local customs, and other characteristics that are appropriate to the unique cultural, regional, and geographic needs of the Indian populations to be served.

(4) In determining whether an application complies with the requirements of subsection (a)(12), the Assistant Secretary shall require only that an applicant provide an appropriate narrative description of the geographic area to be served and an assurance that procedures will be adopted to ensure against duplicate services being provided to the same recipients.

(d) Whenever the Assistant Secretary determines not to approve an application submitted under subsection (a) the Assistant Secretary shall—

(1) state objections in writing to the tribal organization within 60 days after such decision;

(2) provide to the extent practicable technical assistance to the tribal organization to overcome such stated objections; and

(3) provide the tribal organization with a hearing, under such rules and regulations as the Assistant Secretary may prescribe.

(e) Whenever the Assistant Secretary approves an application of a tribal organization under this part, funds shall be awarded for not less than 12 months.

(42 U.S.C. 3057e)

SEC. 614A. DISTRIBUTION OF FUNDS AMONG TRIBAL ORGANIZATIONS.

(a) MAINTENANCE of 1991 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of the grant (if any) made under this part to a tribal organization for fiscal year 1992 and for each subsequent fiscal year shall be not less than the amount of the grant made under this part to the tribal organization for fiscal year 1991.

(b) USE OF ADDITIONAL AMOUNTS APPROPRIATED.—If the funds appropriated to carry out this part in a fiscal year subsequent to fiscal year 1991 exceed the funds appropriated to carry out this part in fiscal year 1991, then the amount of the grant (if any) made under this part to a tribal organization for the subsequent fiscal year shall be—

(1) increased by such amount as the Assistant Secretary considers to be appropriate, in addition to the amount of any increase required by subsection (a), so that the grant equals or more closely approaches the amount of the grant made under this part to the tribal organization for fiscal year 1980; or

(2) an amount the Assistant Secretary considers to be sufficient if the tribal organization did not receive a grant under this part for either fiscal year 1980 or fiscal year 1991.

(42 U.S.C. 3057e–1)

SURPLUS EDUCATIONAL FACILITIES

SEC. 615. (a) Notwithstanding any other provision of law, the Secretary of the Interior through the Bureau of Indian Affairs shall make available surplus Indian educational facilities to tribal organizations, and nonprofit organizations with tribal approval, for use as multipurpose senior centers. Such centers may be altered so as to provide extended care facilities, community center facilities, nutrition services, child care services, and other supportive services.

(b) Each eligible tribal organization desiring to take advantage of such surplus facilities shall submit an application to the Secretary of the Interior at such time and such manner, and containing or accompanied by such information, as the Secretary of the Interior determines to be necessary to carry out the provisions of this section.

(42 U.S.C. 3057f)

PART B—NATIVE HAWAIIAN PROGRAM

FINDINGS

SEC. 621. The Congress finds the older Native Hawaiians—

(1) have a life expectancy 10 years less than any other ethnic group in the State of Hawaii;

(2) rank lowest on 9 of 11 standard health indicies for all ethnic groups in Hawaii;

(3) are often unaware of social services and do not know how to go about seeking such assistance; and

(4) live in poverty at a rate of 34 percent.

(42 U.S.C. 3057g)

ELIGIBILITY

SEC. 622. A public or nonprofit private organization having the capacity to provide services under this part for Native Hawaiians is eligible for assistance under this part only if—

(1) the organization will serve at least 50 individuals who have attained 60 years of age or older; and

(2) the organization demonstrates the ability to deliver supportive services, including nutrition services.

(42 U.S.C. 3057h)

GRANTS AUTHORIZED

SEC. 623. The Assistant Secretary may make grants to public and nonprofit private organizations to pay all of the costs for the delivery of supportive services and nutrition services to older Native Hawaiians.

(42 U.S.C. 3057i)

APPLICATION

SEC. 624. (a) No grant may be made under this part unless the public or nonprofit private organization submits an application to the Assistant Secretary which meets such criteria as the Assistant Secretary may by regulation prescribe. Each such application shall—

(1) provide that the organization will evaluate the need for supportive and nutrition services among older Native Hawaiians to be represented by the organization;

(2) provide for the use of such methods of administration as are necessary for the proper and efficient administration of the program to be assisted;

(3) provide assurances that the organization will coordinate its activities with the State agency on aging and with the activities carried out under title III in the same geographical area;

(4) provide that the organization will make such reports in such form and containing such information as the Assistant Secretary may reasonably require, and comply with such requirements as the Assistant Secretary may impose to ensure the correctness of such reports;

(5) provide for periodic evaluation of activities and projects carried out under the application;

(6) establish objectives, consistent with the purpose of this title, toward which activities described in the application will be directed, identify obstacles to the attainment of such objectives, and indicate the manner in which the organization proposes to overcome such obstacles;

(7) provide for establishing and maintaining information and assistance services to assure that older Native Hawaiians to be served by the assistance made available under this part will have reasonably convenient access to such services;

(8) provide a preference for Native Hawaiians 60 years of age and older for full or part-time staff positions wherever feasible;

(9) provide that any legal or ombudsman services made available to older Native Hawaiians represented by the nonprofit private organization will be substantially in compliance with the provisions of title III relating to the furnishing and similar services; and

(10) provide satisfactory assurance that the fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the nonprofit private organization, including any funds paid by the organization to a recipient of a grant or contract.

(b) The Assistant Secretary shall approve any application which complies with the provisions of subsection (a).

(c) Whenever the Assistant Secretary determines not to approve an application submitted under subsection (a) the Assistant Secretary shall—

(1) state objections in writing to the nonprofit private organization within 60 days after such decision;

(2) provide to the extent practicable technical assistance to the nonprofit private organization to overcome such stated objections; and

(3) provide the organization with a hearing under such rules and regulations as the Assistant Secretary may prescribe.

(d) Whenever the Assistant Secretary approves an application of a nonprofit private or public organization under this part funds shall be awarded for not less than 12 months.

(42 U.S.C. 3057j)

SEC. 624A. DISTRIBUTION OF FUNDS AMONG ORGANIZATIONS.

Subject to the availability of appropriations to carry out this part, the amount of the grant (if any) made under this part to an organization for fiscal year 1992 and for each subsequent fiscal year shall be not less than the amount of the grant made under this part to the organization for fiscal year 1991.

(42 U.S.C. 3057j–1)

DEFINITION

SEC. 625. For the purpose of this part, the term "Native Hawaiian" means any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778.

(42 U.S.C. 3057k)

PART C—NATIVE AMERICAN CAREGIVER SUPPORT PROGRAM

SEC. 631. PROGRAM.

(a) IN GENERAL.—The Assistant Secretary shall carry out a program for making grants to tribal organizations with applications approved under parts A and B, to pay for the Federal share of carrying out tribal programs, to enable the tribal organizations

to provide multifaceted systems of the support services described in section 373 for caregivers described in section 373.

(b) REQUIREMENTS.—In providing services under subsection (a), a tribal organization shall meet the requirements specified for an area agency on aging and for a State in the provisions of subsections (c), (d), and (e) of section 373 and of section 374. For purposes of this subsection, references in such provisions to a State program shall be considered to be references to a tribal program under this part.

(42 U.S.C. 3057k–11)

PART D—GENERAL PROVISIONS

ADMINISTRATION

SEC. 641. In establishing regulations for the purpose of part A the Assistant Secretary shall consult with the Secretary of the Interior.

(42 U.S.C. 3057l)

PAYMENTS

SEC. 642. Payments may be made under this title (after necessary adjustments, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement in such installments and on such conditions as the Assistant Secretary may determine.

(42 U.S.C. 3057m)

SEC. 643. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title—

(1) for parts A and B, such sums as may be necessary for fiscal year 2001, and such sums as may be necessary for subsequent fiscal years; and

(2) for part C, $5,000,000 for fiscal year 2001, and such sums as may be necessary for subsequent fiscal years.

(42 U.S.C. 3057n)

TITLE VII—ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES

Subtitle A—State Provisions

CHAPTER 1—GENERAL STATE PROVISIONS

SEC. 701. ESTABLISHMENT.

The Assistant Secretary, acting through the Administration, shall establish and carry out a program for making allotments to States to pay for the cost of carrying out vulnerable elder rights protection activities.

(42 U.S.C. 3058)

SEC. 702. AUTHORIZATION OF APPROPRIATIONS.

(a) OMBUDSMAN PROGRAM.—There are authorized to be appropriated to carry out chapter 2, such sums as may be necessary for fiscal year 2001, and such sums as may be necessary for subsequent fiscal years.

(b) PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION.—There are authorized to be appropriated to carry out chapter 3, such sums as may be necessary for fiscal year 2001, and such sums as may be necessary for subsequent fiscal years.

(c) LEGAL ASSISTANCE DEVELOPMENT PROGRAM.—There are authorized to be appropriated to carry out chapter 4, such sums as may be necessary for fiscal year 2001, and such sums as may be necessary for subsequent fiscal years.

(42 U.S.C. 3058a)

SEC. 703. ALLOTMENT.

(a) IN GENERAL.—

(1) POPULATION.—In carrying out the program described in section 701, the Assistant Secretary shall initially allot to each State, from the funds appropriated under section 702 for each fiscal year, an amount that bears the same ratio to the funds as the population of older individuals in the State bears to the population of older individuals in all States.

(2) MINIMUM ALLOTMENTS.—

(A) IN GENERAL.—After making the initial allotments described in paragraph (1), the Assistant Secretary shall adjust the allotments on a pro rata basis in accordance with subparagraphs (B) and (C).

(B) GENERAL MINIMUM ALLOTMENTS.—

(i) MINIMUM ALLOTMENT FOR STATES.—No State shall be allotted less than one-half of 1 percent of the funds appropriated under section 702 for the fiscal year for which the determination is made.

(ii) MINIMUM ALLOTMENT FOR TERRITORIES.—Guam, the United States Virgin Islands, and the Trust Territory of the Pacific Islands, shall each be allotted not less than one-fourth of 1 percent of the funds appropriated under section 702 for the fiscal year for which the determination is made. American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than one-sixteenth of 1 percent of the sum appropriated under section 702 for the fiscal year for which the determination is made.

(C) MINIMUM ALLOTMENTS FOR OMBUDSMAN AND ELDER ABUSE PROGRAMS.—

(i) OMBUDSMAN PROGRAM.—No State shall be allotted for a fiscal year, from the funds appropriated under section 702 and made available to carry out chapter 2, less than the amount allotted to the State under section 304 in fiscal year 2000 to carry out the State Long-Term Care Ombudsman program under title III.

(ii) ELDER ABUSE PROGRAMS.—No State shall be allotted for a fiscal year, from the funds appropriated

under section 702 and made available to carry out chapter 3, less than the amount allotted to the State under section 304 in fiscal year 2000 to carry out programs with respect to the prevention of elder abuse, neglect, and exploitation under title III.

(D) DEFINITION.—For the purposes of this paragraph, the term "State" does not include Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(b) REALLOTMENT.—

(1) IN GENERAL.—If the Assistant Secretary determines that any amount allotted to a State for a fiscal year under this section will not be used by the State for carrying out the purpose for which the allotment was made, the Assistant Secretary shall make the amount available to a State that the Assistant Secretary determines will be able to use the amount for carrying out the purpose.

(2) AVAILABILITY.—Any amount made available to a State from an appropriation for a fiscal year in accordance with paragraph (1) shall, for purposes of this subtitle, be regarded as part of the allotment of the State (as determined under subsection (a)) for the year, but shall remain available until the end of the succeeding fiscal year.

(c) WITHHOLDING.—If the Assistant Secretary finds that any State has failed to carry out this title in accordance with the assurances made and description provided under section 705, the Assistant Secretary shall withhold the allotment of funds to the State. The Assistant Secretary shall disburse the funds withheld directly to any public or nonprofit private institution or organization, agency, or political subdivision of the State submitting an approved plan containing the assurances and description.

(42 U.S.C. 3058b)

SEC. 704. ORGANIZATION.

In order for a State to be eligible to receive allotments under this subtitle—

(1) the State shall demonstrate eligibility under section 305;

(2) the State agency designated by the State shall demonstrate compliance with the applicable requirements of section 305; and

(3) each area agency on aging designated by the State agency and participating in such a program shall demonstrate compliance with the applicable requirements of section 305.

(42 U.S.C. 3058c)

SEC. 705. ADDITIONAL STATE PLAN REQUIREMENTS.

(a) ELIGIBILITY.—In order to be eligible to receive an allotment under this subtitle, a State shall include in the State plan submitted under section 307—

(1) an assurance that the State, in carrying out any chapter of this subtitle for which the State receives funding under this subtitle, will establish programs in accordance with the requirements of the chapter and this chapter;

(2) an assurance that the State will hold public hearings, and use other means, to obtain the views of older individuals, area agencies on aging, recipients of grants under title VI, and other interested persons and entities regarding programs carried out under this subtitle;

(3) an assurance that the State, in consultation with area agencies on aging, will identify and prioritize statewide activities aimed at ensuring that older individuals have access to, and assistance in securing and maintaining, benefits and rights;

(4) an assurance that the State will use funds made available under this subtitle for a chapter in addition to, and will not supplant, any funds that are expended under any Federal or State law in existence on the day before the date of the enactment of this subtitle, to carry out each of the vulnerable elder rights protection activities described in the chapter;

(5) an assurance that the State will place no restrictions, other than the requirements referred to in clauses (i) through (iv) of section 712(a)(5)(C), on the eligibility of entities for designation as local Ombudsman entities under section 712(a)(5);

(6) an assurance that, with respect to programs for the prevention of elder abuse, neglect, and exploitation under chapter 3—

(A) in carrying out such programs the State agency will conduct a program of services consistent with relevant State law and coordinated with existing State adult protective service activities for—

(i) public education to identify and prevent elder abuse;

(ii) receipt of reports of elder abuse;

(iii) active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance if appropriate and if the individuals to be referred consent; and

(iv) referral of complaints to law enforcement or public protective service agencies if appropriate;

(B) the State will not permit involuntary or coerced participation in the program of services described in subparagraph (A) by alleged victims, abusers, or their households; and

(C) all information gathered in the course of receiving reports and making referrals shall remain confidential except—

(i) if all parties to such complaint consent in writing to the release of such information;

(ii) if the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system; or

(iii) upon court order; and

(7) a description of the manner in which the State agency will carry out this title in accordance with the assurances described in paragraphs (1) through (6).

(b) PRIVILEGE.—Neither a State, nor a State agency, may require any provider of legal assistance under this subtitle to reveal any information that is protected by the attorney-client privilege.

(42 U.S.C. 3058d)

SEC. 706. DEMONSTRATION PROJECTS.

(a) ESTABLISHMENT.—From amounts made available under section 304(d)(1)(C) after September 30, 1992, each State may provide for the establishment of at least one demonstration project, to be conducted by one or more area agencies on aging within the State, for outreach to older individuals with greatest economic need with respect to—

(1) benefits available under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) (or assistance under a State program established in accordance with such title);

(2) medical assistance available under title XIX of such Act (42 U.S.C. 1396 et seq.); and

(3) benefits available under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

(b) BENEFITS.—Each outreach project carried out under subsection (a) shall—

(1) provide to older individuals with greatest economic need information and assistance regarding their eligibility to receive the benefits and assistance described in paragraphs (1) through (3) of subsection (a);

(2) be carried out in a planning and service area that has a high proportion of older individuals with greatest economic need, relative to the aggregate number of older individuals in such area; and

(3) be coordinated with State and local entities that administer benefits under such titles.

(42 U.S.C. 3058e)

CHAPTER 2—OMBUDSMAN PROGRAMS

SEC. 711. DEFINITIONS.

As used in this chapter:

(1) OFFICE.—The term "Office" means the office established in section 712(a)(1)(A).

(2) OMBUDSMAN.—The term "Ombudsman" means the individual described in section 712(a)(2).

(3) LOCAL OMBUDSMAN ENTITY.—The term "local Ombudsman entity" means an entity designated under section 712(a)(5)(A) to carry out the duties described in section 712(a)(5)(B) with respect to a planning and service area or other substate area.

(4) PROGRAM.—The term "program" means the State Long-Term Care Ombudsman program established in section 712(a)(1)(B).

(5) REPRESENTATIVE.—The term "representative" includes an employee or volunteer who represents an entity designated under section 712(a)(5)(A) and who is individually designated by the Ombudsman.

(6) RESIDENT.—The term "resident" means an older individual who resides in a long-term care facility.

(42 U.S.C. 3058f)

SEC. 712. STATE LONG-TERM CARE OMBUDSMAN PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—In order to be eligible to receive an allotment under section 703 from funds appropriated under section 702 and made available to carry out this chapter, a State agency shall, in accordance with this section—

(A) establish and operate an Office of the State Long-Term Care Ombudsman; and

(B) carry out through the Office a State Long-Term Care Ombudsman program.

(2) OMBUDSMAN.—The Office shall be headed by an individual, to be known as the State Long-Term Care Ombudsman, who shall be selected from among individuals with expertise and experience in the fields of long-term care and advocacy.

(3) FUNCTIONS.—The Ombudsman shall serve on a full-time basis, and shall, personally or through representatives of the Office—

(A) identify, investigate, and resolve complaints that—

(i) are made by, or on behalf of, residents; and

(ii) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), of—

(I) providers, or representatives of providers, of long-term care services;

(II) public agencies; or

(III) health and social service agencies;

(B) provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;

(C) inform the residents about means of obtaining services provided by providers or agencies described in subparagraph (A)(ii) or services described in subparagraph (B);

(D) ensure that the residents have regular and timely access to the services provided through the Office and that the residents and complainants receive timely responses from representatives of the Office to complaints;

(E) represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

(F) provide administrative and technical assistance to entities designated under paragraph (5) to assist the entities in participating in the program;

(G)(i) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in the State;

(ii) recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate; and

(iii) facilitate public comment on the laws, regulations, policies, and actions;

(H)(i) provide for training representatives of the Office;

(ii) promote the development of citizen organizations, to participate in the program; and

(iii) provide technical support for the development of resident and family councils to protect the well-being and rights of residents; and

(I) carry out such other activities as the Assistant Secretary determines to be appropriate.

(4) CONTRACTS AND ARRANGEMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the State agency may establish and operate the Office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

(B) LICENSING AND CERTIFICATION ORGANIZATIONS; ASSOCIATIONS.—The State agency may not enter into the contract or other arrangement described in subparagraph (A) with—

(i) an agency or organization that is responsible for licensing or certifying long-term care services in the State; or

(ii) an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals.

(5) DESIGNATION OF LOCAL OMBUDSMAN ENTITIES AND REPRESENTATIVES.—

(A) DESIGNATION.—In carrying out the duties of the Office, the Ombudsman may designate an entity as a local Ombudsman entity, and may designate an employee or volunteer to represent the entity.

(B) DUTIES.—An individual so designated shall, in accordance with the policies and procedures established by the Office and the State agency—

(i) provide services to protect the health, safety, welfare [1] and rights of residents;

(ii) ensure that residents in the service area of the entity have regular, timely access to representatives of the program and timely responses to complaints and requests for assistance;

(iii) identify, investigate, and resolve complaints made by or on behalf of residents that relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents;

(iv) represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

[1] Error in amendment made by section 701 of Public Law 102–375. Should insert a comma.

(v)(I) review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents; and

(II) facilitate the ability of the public to comment on the laws, regulations, policies, and actions;

(vi) support the development of resident and family councils; and

(vii) carry out other activities that the Ombudsman determines to be appropriate.

(C) ELIGIBILITY FOR DESIGNATION.—Entities eligible to be designated as local Ombudsman entities, and individuals eligible to be designated as representatives of such entities, shall—

(i) have demonstrated capability to carry out the responsibilities of the Office;

(ii) be free of conflicts of interest and not stand to gain financially through an action or potential action brought on behalf of individuals the Ombudsman serves;

(iii) in the case of the entities, be public or nonprofit private entities; and

(iv) meet such additional requirements as the Ombudsman may specify.

(D) POLICIES AND PROCEDURES.—

(i) IN GENERAL.—The State agency shall establish, in accordance with the Office, policies and procedures for monitoring local Ombudsman entities designated to carry out the duties of the Office.

(ii) POLICIES.—In a case in which the entities are grantees, or the representatives are employees, of area agencies on aging, the State agency shall develop the policies in consultation with the area agencies on aging. The policies shall provide for participation and comment by the agencies and for resolution of concerns with respect to case activity.

(iii) CONFIDENTIALITY AND DISCLOSURE.—The State agency shall develop the policies and procedures in accordance with all provisions of this subtitle regarding confidentiality and conflict of interest.

(b) PROCEDURES FOR ACCESS.—

(1) IN GENERAL.—The State shall ensure that representatives of the Office shall have—

(A) access to long-term care facilities and residents;

(B)(i) appropriate access to review the medical and social records of a resident, if—

(I) the representative has the permission of the resident, or the legal representative of the resident; or

(II) the resident is unable to consent to the review and has no legal representative; or

(ii) access to the records as is necessary to investigate a complaint if—

(I) a legal guardian of the resident refuses to give the permission;

(II) a representative of the Office has reasonable cause to believe that the guardian is not acting in the best interests of the resident; and

(III) the representative obtains the approval of the Ombudsman;

(C) access to the administrative records, policies, and documents, to which the residents have, or the general public has access, of long-term care facilities; and

(D) access to and, on request, copies of all licensing and certification records maintained by the State with respect to long-term care facilities.

(2) PROCEDURES.—The State agency shall establish procedures to ensure the access described in paragraph (1).

(c) REPORTING SYSTEM.—The State agency shall establish a statewide uniform reporting system to—

(1) collect and analyze data relating to complaints and conditions in long-term care facilities and to residents for the purpose of identifying and resolving significant problems; and

(2) submit the data, on a regular basis, to—

(A) the agency of the State responsible for licensing or certifying long-term care facilities in the State;

(B) other State and Federal entities that the Ombudsman determines to be appropriate;

(C) the Assistant Secretary; and

(D) the National Ombudsman Resource Center established in section 202(a)(21).

(d) DISCLOSURE.—

(1) IN GENERAL.—The State agency shall establish procedures for the disclosure by the Ombudsman or local Ombudsman entities of files maintained by the program, including records described in subsection (b)(1) or (c).

(2) IDENTITY OF COMPLAINANT OR RESIDENT.—The procedures described in paragraph (1) shall—

(A) provide that, subject to subparagraph (B), the files and records described in paragraph (1) may be disclosed only at the discretion of the Ombudsman (or the person designated by the Ombudsman to disclose the files and records); and

(B) prohibit the disclosure of the identity of any complainant or resident with respect to whom the Office maintains such files or records unless—

(i) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;

(ii)(I) the complainant or resident gives consent orally; and

(II) the consent is documented contemporaneously in a writing made by a representative of the Office in accordance with such requirements as the State agency shall establish; or

(iii) the disclosure is required by court order.

(e) CONSULTATION.—In planning and operating the program, the State agency shall consider the views of area agencies on aging, older individuals, and providers of long-term care.

(f) CONFLICT OF INTEREST.—The State agency shall—

(1) ensure that no individual, or member of the immediate family of an individual, involved in the designation of the Ombudsman (whether by appointment or otherwise) or the designation of an entity designated under subsection (a)(5), is subject to a conflict of interest;

(2) ensure that no officer or employee of the Office, representative of a local Ombudsman entity, or member of the immediate family of the officer, employee, or representative, is subject to a conflict of interest;

(3) ensure that the Ombudsman—

(A) does not have a direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care service;

(B) does not have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or a long-term care service;

(C) is not employed by, or participating in the management of, a long-term care facility; and

(D) does not receive, or have the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility; and

(4) establish, and specify in writing, mechanisms to identify and remove conflicts of interest referred to in paragraphs (1) and (2), and to identify and eliminate the relationships described in subparagraphs (A) through (D) of paragraph (3), including such mechanisms as—

(A) the methods by which the State agency will examine individuals, and immediate family members, to identify the conflicts; and

(B) the actions that the State agency will require the individuals and such family members to take to remove such conflicts.

(g) LEGAL COUNSEL.—The State agency shall ensure that—

(1)(A) adequate legal counsel is available, and is able, without conflict of interest, to—

(i) provide advice and consultation needed to protect the health, safety, welfare, and rights of residents; and

(ii) assist the Ombudsman and representatives of the Office in the performance of the official duties of the Ombudsman and representatives; and

(B) legal representation is provided to any representative of the Office against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties of the Ombudsman or such a representative; and

(2) the Office pursues administrative, legal, and other appropriate remedies on behalf of residents.

(h) ADMINISTRATION.—The State agency shall require the Office to—

(1) prepare an annual report—

(A) describing the activities carried out by the Office in the year for which the report is prepared;

(B) containing and analyzing the data collected under subsection (c);

(C) evaluating the problems experienced by, and the complaints made by or on behalf of, residents;

(D) containing recommendations for—

(i) improving quality of the care and life of the residents; and

(ii) protecting the health, safety, welfare, and rights of the residents;

(E)(i) analyzing the success of the program including success in providing services to residents of board and care facilities and other similar adult care facilities; and

(ii) identifying barriers that prevent the optimal operation of the program; and

(F) providing policy, regulatory, and legislative recommendations to solve identified problems, to resolve the complaints, to improve the quality of care and life of residents, to protect the health, safety, welfare, and rights of residents, and to remove the barriers;

(2) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services, and to the health, safety, welfare, and rights of residents, in the State, and recommend any changes in such laws, regulations, and policies as the Office determines to be appropriate;

(3)(A) provide such information as the Office determines to be necessary to public and private agencies, legislators, and other persons, regarding—

(i) the problems and concerns of older individuals residing in long-term care facilities; and

(ii) recommendations related to the problems and concerns; and

(B) make available to the public, and submit to the Assistant Secretary, the chief executive officer of the State, the State legislature, the State agency responsible for licensing or certifying long-term care facilities, and other appropriate governmental entities, each report prepared under paragraph (1);

(4)(A) not later than 1 year after the date of the enactment of this title, establish [1] procedures for the training of the representatives of the Office, including unpaid volunteers, based on model standards established by the Director of the Office of Long-Term Care Ombudsman Programs, in consultation with representatives of citizen groups, long-term care providers, and the Office, that—

(A) specify a minimum number of hours of initial training;

(B) specify the content of the training, including training relating to—

[1] Error in the amendment made by section 704(2)(A)(i) of the Older Americans Act Amendments of 2000 (P.L. 106–501; 114 Stat. 2289) by striking "(A) not later than 1 year after the date of enactment of this title, establish" and inserting "strengthen and update". The amendment could not be executed because of an incorrect reference to text.

(i) Federal, State, and local laws, regulations, and policies, with respect to long-term care facilities in the State;

(ii) investigative techniques; and

(iii) such other matters as the State determines to be appropriate; and

(C) specify an annual number of hours of in-service training for all designated representatives;

(5) prohibit any representative of the Office (other than the Ombudsman) from carrying out any activity described in subparagraphs (A) through (G) of subsection (a)(3) unless the representative—

(A) has received the training required under paragraph (4); and

(B) has been approved by the Ombudsman as qualified to carry out the activity on behalf of the Office;

(6) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illnesses established under—

(A) subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [1]; and

(B) the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

(7) coordinate, to the greatest extent possible, ombudsman services with legal assistance provided under section 306(a)(2)(C), through adoption of memoranda of understanding and other means;

(8) coordinate services with State and local law enforcement agencies and courts of competent jurisdiction; and

(9) permit any local Ombudsman entity to carry out the responsibilities described in paragraph (1), (2), (3), (6), or (7).

(i) LIABILITY.—The State shall ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.

(j) NONINTERFERENCE.—The State shall—

(1) ensure that willful interference with representatives of the Office in the performance of the official duties of the representatives (as defined by the Assistant Secretary) shall be unlawful;

(2) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of, the Office; and

(3) provide for appropriate sanctions with respect to the interference, retaliation, and reprisals.

(42 U.S.C. 3058g)

SEC. 713. REGULATIONS.

The Assistant Secretary shall issue and periodically update regulations respecting—

[1] So in law. Probably should read "subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000". See the amendment made by section 401(b)(9)(D) of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (Public Law 106–402; 114 Stat. 1739).

(1) conflicts of interest by persons described in paragraphs (1) and (2) of section 712(f); and

(2) the relationships described in subparagraphs (A) through (D) of section 712(f)(3).

(42 U.S.C. 3058h)

CHAPTER 3—PROGRAMS FOR PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION

SEC. 721. PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION.

(a) ESTABLISHMENT.—In order to be eligible to receive an allotment under section 703 from funds appropriated under section 702 and made available to carry out this chapter, a State agency shall, in accordance with this section, and in consultation with area agencies on aging, develop and enhance programs for the prevention of elder abuse, neglect, and exploitation.

(b) USE OF ALLOTMENTS.—The State agency shall use an allotment made under subsection (a) to carry out, through the programs described in subsection (a), activities to develop, strengthen, and carry out programs for the prevention and treatment of elder abuse, neglect, and exploitation (including financial exploitation), including—

(1) providing for public education and outreach to identify and prevent elder abuse, neglect, and exploitation;

(2) ensuring the coordination of services provided by area agencies on aging with services instituted under the State adult protection service program, State and local law enforcement systems, and courts of competent jurisdiction;

(3) promoting the development of information and data systems, including elder abuse reporting systems, to quantify the extent of elder abuse, neglect, and exploitation in the State;

(4) conducting analyses of State information concerning elder abuse, neglect, and exploitation and identifying unmet service, enforcement, or intervention needs;

(5) conducting training for individuals, including caregivers described in part E of title III, professionals, and paraprofessionals, in relevant fields on the identification, prevention, and treatment of elder abuse, neglect, and exploitation, with particular focus on prevention and enhancement of self-determination and autonomy;

(6) providing technical assistance to programs that provide or have the potential to provide services for victims of elder abuse, neglect, and exploitation and for family members of the victims;

(7) conducting special and on-going training, for individuals involved in serving victims of elder abuse, neglect, and exploitation, on the topics of self-determination, individual rights, State and Federal requirements concerning confidentiality, and other topics determined by a State agency to be appropriate; and

(8) promoting the development of an elder abuse, neglect, and exploitation system—

(A) that includes a State elder abuse, neglect, and exploitation law that includes provisions for immunity, for persons reporting instances of elder abuse, neglect, and exploitation, from prosecution arising out of such reporting, under any State or local law;

(B) under which a State agency—

(i) on receipt of a report of known or suspected instances of elder abuse, neglect, or exploitation, shall promptly initiate an investigation to substantiate the accuracy of the report; and

(ii) on a finding of elder abuse, neglect, or exploitation, shall take steps, including appropriate referral, to protect the health and welfare of the abused, neglected, or exploited older individual;

(C) that includes, throughout the State, in connection with the enforcement of elder abuse, neglect, and exploitation laws and with the reporting of suspected instances of elder abuse, neglect, and exploitation—

(i) such administrative procedures;

(ii) such personnel trained in the special problems of elder abuse, neglect, and exploitation prevention and treatment;

(iii) such training procedures;

(iv) such institutional and other facilities (public and private); and

(v) such related multidisciplinary programs and services,

as may be necessary or appropriate to ensure that the State will deal effectively with elder abuse, neglect, and exploitation cases in the State;

(D) that preserves the confidentiality of records in order to protect the rights of older individuals;

(E) that provides for the cooperation of law enforcement officials, courts of competent jurisdiction, and State agencies providing human services with respect to special problems of elder abuse, neglect, and exploitation;

(F) that enables an older individual to participate in decisions regarding the welfare of the older individual, and makes the least restrictive alternatives available to an older individual who is abused, neglected, or exploited; and

(G) that includes a State clearinghouse for dissemination of information to the general public with respect to—

(i) the problems of elder abuse, neglect, and exploitation;

(ii) the facilities described in subparagraph (C)(iv); and

(iii) prevention and treatment methods available to combat instances of elder abuse, neglect, and exploitation.

(c) APPROACH.—In developing and enhancing programs under subsection (a), the State agency shall use a comprehensive approach, in consultation with area agencies on aging, to identify and assist older individuals who are subject to abuse, neglect, and exploitation, including older individuals who live in State licensed fa-

cilities, unlicensed facilities, or domestic or community-based settings.

(d) COORDINATION.—In developing and enhancing programs under subsection (a), the State agency shall coordinate the programs with other State and local programs and services for the protection of vulnerable adults, particularly vulnerable older individuals, including programs and services such as—

(1) area agency on aging programs;

(2) adult protective service programs;

(3) the State Long-Term Care Ombudsman program established in chapter 2;

(4) protection and advocacy programs;

(5) facility and long-term care provider licensure and certification programs;

(6) medicaid fraud and abuse services, including services provided by a State medicaid fraud control unit, as defined in section 1903(q) of the Social Security Act (42 U.S.C. 1396b(q));

(7) victim assistance programs; and

(8) consumer protection and State and local law enforcement programs, as well as other State and local programs that identify and assist vulnerable older individuals, and services provided by agencies and courts of competent jurisdiction.

(e) REQUIREMENTS.—In developing and enhancing programs under subsection (a), the State agency shall—

(1) not permit involuntary or coerced participation in such programs by alleged victims, abusers, or members of their households;

(2) require that all information gathered in the course of receiving a report described in subsection (b)(8)(B)(i), and making a referral described in subsection (b)(8)(B)(ii), shall remain confidential except—

(A) if all parties to such complaint or report consent in writing to the release of such information;

(B) if the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system; or

(C) upon court order; and

(3) make all reasonable efforts to resolve any conflicts with other public agencies with respect to confidentiality of the information described in paragraph (2) by entering into memoranda of understanding that narrowly limit disclosure of information, consistent with the requirement described in paragraph (2).

(f) DESIGNATION.—The State agency may designate a State entity to carry out the programs and activities described in this chapter.

(g) STUDY AND REPORT.—

(1) STUDY.—The Secretary, in consultation with the Department of the Treasury and the Attorney General of the United States, State attorneys general, and tribal and local prosecutors, shall conduct a study of the nature and extent of financial exploitation of older individuals. The purpose of this study would be to define and describe the scope of the problem of financial exploitation of the elderly and to provide an esti-

mate of the number and type of financial transactions considered to constitute financial exploitation faced by older individuals. The study shall also examine the adequacy of current Federal and State legal protections to prevent such exploitation.

(2) REPORT.—Not later than 18 months after the date of the enactment of the Older Americans Act Amendments of 2000, the Secretary shall submit to Congress a report, which shall include—

(A) the results of the study conducted under this subsection; and

(B) recommendations for future actions to combat the financial exploitation of older individuals.

(42 U.S.C. 3058i)

CHAPTER 4—STATE LEGAL ASSISTANCE DEVELOPMENT PROGRAM

SEC. 731. STATE LEGAL ASSISTANCE DEVELOPMENT.

A State agency shall provide the services of an individual who shall be known as a State legal assistance developer, and the services of other personnel, sufficient to ensure—

(1) State leadership in securing and maintaining the legal rights of older individuals;

(2) State capacity for coordinating the provision of legal assistance;

(3) State capacity to provide technical assistance, training, and other supportive functions to area agencies on aging, legal assistance providers, ombudsmen, and other persons, as appropriate;

(4) State capacity to promote financial management services to older individuals at risk of conservatorship;

(5) State capacity to assist older individuals in understanding their rights, exercising choices, benefiting from services and opportunities authorized by law, and maintaining the rights of older individuals at risk of guardianship; and

(6) State capacity to improve the quality and quantity of legal services provided to older individuals.

(42 U.S.C. 3058j)

Subtitle B—Native American Organization Provisions

SEC. 751. NATIVE AMERICAN PROGRAM.

(a) ESTABLISHMENT.—The Assistant Secretary, acting through the Director of the Office for American Indian, Alaskan Native, and Native Hawaiian Aging, shall establish and carry out a program for—

(1) assisting eligible entities in prioritizing, on a continuing basis, the needs of the service population of the entities relating to elder rights; and

(2) making grants to eligible entities to carry out vulnerable elder rights protection activities that the entities determine to be priorities.

(b) APPLICATION.—In order to be eligible to receive assistance under this subtitle, an entity shall submit an application to the Assistant Secretary, at such time, in such manner, and containing such information as the Assistant Secretary may require.

(c) ELIGIBLE ENTITY.—An entity eligible to receive assistance under this section shall be—

(1) an Indian tribe; or

(2) a public agency, or a nonprofit organization, serving older individuals who are Native Americans.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2001, and such sums as may be necessary for subsequent fiscal years.

(42 U.S.C. 3058aa)

Subtitle C—General Provisions

SEC. 761. DEFINITIONS.

As used in this title:

(1) ELDER RIGHT.—The term "elder right" means a right of an older individual.

(2) VULNERABLE ELDER RIGHTS PROTECTION ACTIVITY.—The term "vulnerable elder rights protection activity" means an activity funded under subtitle A.

(42 U.S.C. 3058bb)

SEC. 762. ADMINISTRATION.

A State agency may carry out vulnerable elder rights protection activities either directly or through contracts or agreements with public or nonprofit private agencies or organizations, such as—

(1) other State agencies;

(2) area agencies on aging;

(3) county governments;

(4) institutions of higher education;

(5) Indian tribes; or

(6) nonprofit service providers or volunteer organizations.

(42 U.S.C. 3058cc)

SEC. 763. TECHNICAL ASSISTANCE.

(a) OTHER AGENCIES.—In carrying out the provisions of this title, the Assistant Secretary may request the technical assistance and cooperation of such Federal entities as may be appropriate.

(b) ASSISTANT SECRETARY.—The Assistant Secretary shall provide technical assistance and training (by contract, grant, or otherwise) to persons and entities that administer programs established under this title.

(42 U.S.C. 3058dd)

SEC. 764. AUDITS.

(a) ACCESS.—The Assistant Secretary, the Comptroller General of the United States, and any duly authorized representative of the Assistant Secretary or the Comptroller shall have access, for the purpose of conducting an audit or examination, to any books, docu-

ments, papers, and records that are pertinent to financial assistance received under this title.

(b) LIMITATION.—State agencies and area agencies on aging shall not request information or data from providers that is not pertinent to services furnished under this title or to a payment made for the services.

(42 U.S.C. 3058ee)

[ECONOMIC OPPORTUNITY ACT OF 1964] [1]

[Public Law 88–452; August 20, 1964 (78 Stat. 508)]

TITLE VIII—NATIVE AMERICAN PROGRAMS

SHORT TITLE

SEC. 801. This title may be cited as the "Native American Programs Act of 1974".

(42 U.S.C. 2991)

STATEMENT OF PURPOSE

SEC. 802. The purpose of this title is to promote the goal of economic and social self-sufficiency for American Indians, Native Hawaiians, other Native American Pacific Islanders (including American Samoan Natives), and Alaska Natives.

(42 U.S.C. 2991a)

FINANCIAL ASSISTANCE FOR NATIVE AMERICAN PROJECTS

SEC. 803. (a) The Commissioner is authorized to provide financial assistance, on a single year or multiyear basis, to public and nonprofit private agencies, including but not limited to, governing bodies of Indian tribes on Federal and State reservations, Alaska Native villages and regional corporations established by the Alaska Native Claims Settlement Act, and such public and nonprofit private agencies serving Native Hawaiians, and Indian and Alaska Native organizations in urban or rural areas that are not Indian reservations or Alaska Native villages, for project pertaining to the purposes of this title. The Commissioner is authorized to provide financial assistance to public and nonprofit private agencies serving other Native American Pacific Islanders (including American Samoan Natives) for projects pertaining to the purposes of this Act. In determining the projects to be assisted under this title, the Commissioner shall consult with other Federal agencies for the purpose of eliminating duplication or conflict among similar activities or project and for the purpose of determining whether the findings resulting from those projects may be incorporated into one or more programs for which those agencies are responsible. Every determination made with respect to a request for financial assistance under this section shall be made without regard to whether the agency making such request serves, or the project to be assisted is for the benefit of, Indians who are not members of a federally recognized tribe. To the greatest extent practicable, the Commissioner shall ensure that each project to be assisted under this title is con-

[1] Section 683(a) of Public Law 97–35 repeals all of this Act except title VIII and title X. Thus, the short title of the Act is repealed.

sistent with the priorities established by the agency which receives such assistance.

(b) Financial assistance extended to an agency under this title shall not exceed 80 per centum of the approved costs of the assisted project, except that the Commissioner may approve assistance in excess of such percentage if the Commissioner determines, in accordance with regulations establishing objective criteria, that such action required in furtherance of the purposes of this title. Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, and services. The Commissioner shall not require non-Federal contributions in excess of 20 per centum of the approved cost of programs or activities assisted under this title.

(c)(1) No project shall be approved for assistance under this title unless the Commissioner is satisfied that the activities to be carried out under such project will be in addition to, and not in substitution for, comparable activities previously carried out without Federal assistance, except that the Commissioner may waive this requirement in any case in which the Commissioner determines, in accordance with regulations establishing objective criteria, that application of the requirement would result in unnecessary hardship or otherwise be inconsistent with the purposes of this title.

(2) No project may be disapproved for assistance under this title solely because the agency requesting such assistance is an Indian organization in a nonreservation area or serves Indians in a nonreservation area.

(d)(1) The Commissioner shall award grants to Indian tribes for the purpose of funding 80 percent of the costs of planning, developing, and implementing programs designed to improve the capability of the governing body of the Indian tribe to regulate environmental quality pursuant to Federal and tribal environmental laws.

(2) The purposes for which funds provided under any grant awarded under paragraph (1) may be used include, but are not limited to—

(A) the training and education of employees responsible for enforcing, or monitoring compliance with, environmental quality laws,

(B) the development of tribal laws on environmental quality, and

(C) the enforcement and monitoring of environmental quality laws.

(3) The 20 percent of the costs of planning, developing, and implementing a program for which a grant is awarded under paragraph (1) that are not to be paid from such grant may be paid by the grant recipient in cash or through the provision of property or services, but only to the extent that such cash or property is from any source (including any Federal agency) other than a program, contract, or grant authorized under this title.

(4) Grants shall be awarded under paragraph (1) on the basis of applications that are submitted by Indian tribes to the Commissioner in such form as the Commissioner shall prescribe.

(42 U.S.C. 2991b)

LOAN FUND; DEMONSTRATION PROJECT

SEC. 803A. (a)(1) In order to provide funding that is not available from private sources, the Commissioner shall award a grant to the Office of Hawaiian Affairs of the State of Hawaii (referred to in this section as the "Office"), which shall use that grant to carry out, in the State of Hawaii, a demonstration project involving the establishment of a revolving loan fund—

(A) from which the Office shall make loans or loan guarantees to Native Hawaiian organizations and to individual Native Hawaiians for the purpose of promoting economic development in the State of Hawaii; and

(B) into which all payments, interest, charges, and other amounts collected from loans made under subparagraph (A) shall be deposited notwithstanding any other provision of law.

(2) The agreement under which a grant is awarded under paragraph (1) shall contain provisions which set forth the administrative costs of the grantee that are to be paid out of the funds provided under the grant and a requirement that the grantee contribute to the revolving loan fund an amount of non-Federal funds equal to the amount of such grant.

(b)(1) The Office may make a loan or loan guarantee to a borrower under subsection (a)(1)(A) only if the Office determines that—

(A) the borrower is unable to obtain financing from other sources on reasonable terms and conditions; and

(B) there is a reasonable prospect that the borrower will repay the loan.

(2) Each loan or loan guarantee made under subsection (a)(1)(A) shall be—

(A) for a term that does not exceed 7 years; and

(B) at a rate of interest that does not exceed a rate equal to the sum of—

(I)[1] the most recently published prime rate (as published in the newspapers of general circulation in the State of Hawaii before the date on which the loan is made); and

(II)[1] 3 percentage points.

(3) The Office may require any borrower of a loan made under subsection (a)(1)(A) to provide such collateral as the Office determines to be necessary to secure the loan.

(4) Prior to making loans under subsection (a)(1)(A), the Office shall establish written procedures and definitions pertaining to defaults and collections of payments under the loans which shall be subject to the review and approval of the Commissioner. Such Office shall provide to each applicant for a loan under subsection (a)(1)(A), at the time application for the loan is made, a written copy of such procedures and definitions.

(5) The Office may not lend to itself any of the funds awarded under the grant.

(c)(1) The Office shall provide the Commissioner at regular intervals written notice of each loan made under subsection (a)(1)(A) that is in default and the status of such loan.

[1] So in original. The indentation is wrong and the "(I)" and "(II)" designations should have been "(i)" and "(ii)".

(2)(A) After making reasonable efforts to collect all amounts payable under a loan made under subsection (a)(1)(A) that is in default, the Office shall notify the Commissioner that such loan is uncollectable or collectable only at an unreasonable cost. Such notice shall include recommendations for future action to be taken by the Office.

(B) Upon receiving such notice, the Commissioner shall instruct the Office—

(i) to continue with its collection activities;

(ii) to cancel, adjust, compromise, or reduce the amount of such loan; or

(iii) to modify any term or condition of such loan, including any term or condition relating to the rate of interest or the time of payment of any installment of principal or interest, or portion thereof, that is payable under such loan.

(C) The Office shall carry out all instructions received under subparagraph (B) from the Commissioner.

(d)(1) The Office shall, out of funds available in the revolving loan fund established under such subsection—

(A) pay expenses incurred by the Office in administering the revolving loan fund; and

(B) provide competent management and technical assistance to borrowers of loans made under subsection (a)(1)(A) to assist the borrowers to achieve the purposes of such loans.

(2) The Commissioner shall provide to the agency or organization such management and technical assistance as the Office may request in order to carry out the provisions of this section.

(e) Not later than 120 days after the date of enactment of the Native American Programs Act Amendments of 1987, the Commissioner, in consultation with appropriate agencies of the State of Hawaii and community-based Native Hawaiian organizations, shall prescribe regulations which set forth the procedures and criteria to be used—

(1) in making loans under subsection (a)(1)(A); and

(2) in canceling, adjusting, compromising, and reducing under subsection (c) the outstanding amounts of such loans.

The Commissioner may prescribe such other regulations as may be necessary to carry out the purposes of this section, including regulations involving reporting and auditing.

(f)(1) There is authorized to be appropriated for each of the fiscal years 2000 and 2001, $1,000,000 for the purpose of carrying out the provisions of this section. Any amount appropriated under this paragraph shall remain available for expenditure without fiscal year limitation.

(2) The revolving loan fund that is required to be established under subsection (a)(1) shall be maintained as a separate account. Any portion of the revolving loan fund that is not required for expenditure shall be invested in obligations of the United States or in obligations guaranteed or insured by the United States.

(g)(1) The Commissioner, in consultation with the Office, shall submit a report to the President pro tempore of the Senate and the Speaker of the House of Representatives not later than January 1 following each fiscal year, regarding the administration of this section in such fiscal year.

(2) Such report shall include the views and recommendations of the Commissioner with respect to the revolving loan fund established under subsection (a)(1) and with respect to loans made from such fund, and shall—

(A) describe the effectiveness of the operation of such fund in improving the economic and social self-sufficiency of Native Hawaiians;

(B) specify the number of loans made in such fiscal year;

(C) specify the number of loans outstanding as of the end of such fiscal year; and

(D) specify the number of borrowers who fail in such fiscal year to repay loans in accordance with the agreements under which such loans are required to be repaid.

(42 U.S.C. 2991b–1)

ESTABLISHMENT OF ADMINISTRATION FOR NATIVE AMERICANS

SEC. 803B. (a) There is established in the Department of Health and Human Services (referred to in this title as the "Department") the Administration for Native Americans (referred to in this title as the "Administration"), which shall be headed by a Commissioner of the Administration for Native Americans (referred to in this title as the "Commissioner"). The Administration shall be the agency responsible for carrying out the provisions of this title.

(b) The Commissioner shall be appointed by the President, by and with the advice and consent of the Senate.

(c) The Commissioner shall—

(1) provide for financial assistance, loan funds, technical assistance, training, research and demonstration projects, and other activities, described in this title;

(2) serve as the effective and visible advocate on behalf of Native Americans within the Department, and with other departments and agencies of the Federal Government regarding all Federal policies affecting Native Americans;

(3) with the assistance of the Intra-Departmental Council on Native American Affairs established by subsection (d)(1), coordinate activities within the Department leading to the development of policies, programs, and budgets, and their administration affecting Native Americans, and provide quarterly reports and recommendations to the Secretary;

(4) collect and disseminate information related to the social and economic conditions of Native Americans, and assist the Secretary in preparing an annual report to the Congress about such conditions;

(5) give preference to agencies described in section 803(a) that are eligible for assistance under this title, in entering into contracts for technical assistance, training, and evaluation under this title; and

(6) encourage agencies that carry out projects under this title, to give preference to Native Americans, in hiring and entering into contracts to carry out such projects.

(d)(1) There is established in the Office of the Secretary the Intra-Departmental Council on Native American Affairs. The Commissioner shall be the chairperson of such Council and shall advise the Secretary on all matters affecting Native Americans that in-

volve the Department. The Director of the Indian Health Service shall serve as vice chairperson of the Council.

(2) The membership of the Council shall be the heads of principal operating divisions within the Department, as determined by the Secretary, and such persons in the Office of the Secretary as the Secretary may designate.

(3) In addition to the duties described in subsection (c)(3), the Council shall, within 180 days following the date of the enactment of the Native American Programs Act Amendments of 1992, prepare a plan, including legislative recommendations, to allow tribal governments and other organizations described in section 803(a) to consolidate grants administered by the Department and to designate a single office to oversee and audit the grants. Such plan shall be submitted to the committees of the Senate and the House of Representatives having jurisdiction over the Administration for Native Americans.

(e) The Secretary shall assure that adequate staff and administrative support is provided to carry out the purpose of this title. In determining the staffing levels of the Administration, the Secretary shall consider among other factors the unmet needs of the Native American population, the need to provide adequate oversight and technical assistance to grantees, the need to carry out the activities of the Council, the additional reporting requirements established, and the staffing levels previously maintained in support of the Administration.

(42 U.S.C. 2991b–2)

SEC. 803C. GRANT PROGRAM TO ENSURE THE SURVIVAL AND CONTINUING VITALITY OF NATIVE AMERICAN LANGUAGES.

(a) AUTHORITY TO AWARD GRANTS.—The Secretary shall award a grant to any agency or organization that is—

(1) eligible for financial assistance under section 803(a); and

(2) selected under subsection (c);

to be used to assist Native Americans in ensuring the survival and continuing vitality of Native American languages.

(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—The purposes for which each grant awarded under subsection (a) may be used include, but are not limited to—

(1) the establishment and support of a community Native American language project to bring older and younger Native Americans together to facilitate and encourage the transfer of Native American language skills from one generation to another;

(2) the establishment of a project to train Native Americans to teach a Native American language to others or to enable them to serve as interpreters or translators of such language;

(3) the development, printing, and dissemination of materials to be used for the teaching and enhancement of a Native American language;

(4) the establishment or support of a project to train Native Americans to produce or participate in a television or radio program to be broadcast in a Native American language;

(5) the compilation, transcription, and analysis of oral testimony to record and preserve a Native American language; and

(6) the purchase of equipment (including audio and video recording equipment, computers, and software) required to conduct a Native American language project.

(c) APPLICATIONS.—For the purpose of making grants under subsection (a), the Secretary shall select applicants from among agencies and organizations described in such subsection on the basis of applications submitted to the Secretary at such time, in such form, and containing such information as the Secretary shall require, but each application shall include at a minimum—

(1) a detailed description of the current status of the Native American language to be addressed by the project for which a grant under subsection (a) is requested, including a description of existing programs and projects, if any, in support of such language;

(2) a detailed description of the project for which such grant is requested;

(3) a statement of objectives that are consonant with the purpose described in subsection (a);

(4) a detailed description of a plan to be carried out by the applicant to evaluate such project, consonant with the purpose for which such grant is made;

(5) if appropriate, an identification of opportunities for the replication of such project or the modification of such project for use by other Native Americans; and

(6) a plan for the preservation of the products of the Native American language project for the benefit of future generations of Native Americans and other interested persons.

(d) PARTICIPATING ORGANIZATIONS.—If a tribal organization or other eligible applicant decides that the objectives of its proposed Native American language project would be accomplished more effectively through a partnership arrangement with a school, college, or university, the applicant shall identify such school, college, or university as a participating organization in the application submitted under subsection (c).

(e) LIMITATIONS ON FUNDING.—

(1) SHARE.—Notwithstanding any other provision of this title, a grant made under subsection (a) may not be expended to pay more than 80 percent of the cost of the project that is assisted by such grant. Not less than 20 percent of such cost—

(A) shall be in cash or in kind, fairly evaluated, including plant, equipment, or services; and

(B)(i) may be provided from any private or non-Federal source; and

(ii) may include funds (including interest) distributed to a tribe—

(I) by the Federal Government pursuant to the satisfaction of a claim made under Federal law;

(II) from funds collected and administered by the Federal Government on behalf of such tribe or its constituent members; or

(III) by the Federal Government for general tribal administration or tribal development under a formula

or subject to a tribal budgeting priority system, such as, but not limited to, funds involved in the settlement of land or other judgment claims, severance or other royalty payments, or payments under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or tribal budget priority system.

(2) DURATION.—The Secretary may make grants made under subsection (a) on a 1-year, 2-year, or 3-year basis.

(f) ADMINISTRATION.—(1) The Secretary shall carry out this section through the Administration for Native Americans.

(2)(A) Not later than 180 days after the effective date of this section, the Secretary shall appoint a panel of experts for the purpose of assisting the Secretary to review—

(i) applications submitted under subsection (a);

(ii) evaluations carried out to comply with subsection (c)(4); and

(iii) the preservation of products required by subsection (c)(5).

(B) Such panel shall include, but not be limited to—

(i) a designee of the Institute of American Indian and Alaska Native Culture and Arts Development;

(ii) a designee of the regional centers funded under section 5135 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3215);

(iii) representatives of national, tribal, and regional organizations that focus on Native American language, or Native American cultural, research, development, or training; and

(iv) other individuals who are recognized for their expertise in the area of Native American language.

Recommendations for appointment to such panel shall be solicited from Indian tribes and tribal organizations.

(C) The duties of such panel include—

(i) making recommendations regarding the development and implementation of regulations, policies, procedures, and rules of general applicability with respect to the administration of this section;

(ii) reviewing applications received under subsection (c);

(iii) providing to the Secretary a list of recommendations for the approval of such applications—

(I) in accordance with regulations issued by the Secretary; and

(II) the relative need for the project; and

(iv) reviewing evaluations submitted to comply with subsection (c)(4).

(D)(i) Subject to clause (ii), a copy of the products of the Native American language project for which a grant is made under subsection (a)—

(I) shall be transmitted to the Institute of American Indian and Alaska Native Culture and Arts Development; and

(II) may be transmitted, in the discretion of the grantee, to national and regional repositories of similar material;

for preservation and use consonant with their respective responsibilities under other Federal law.

(ii) Based on the Federal recognition of the sovereign authority of Indian tribes over all aspects of their cultures and language and

except as provided in clause (iii), an Indian tribe may make a determination—

(I) not to transmit copies of such products under clause (i) or not to permit the redistribution of such copies; or

(II) to restrict in any manner the use or redistribution of such copies after transmission under such clause.

(iii) Clause (ii) shall not be construed to authorize Indian tribes—

(I) to limit the access of the Secretary to such products for purposes of administering this section or evaluating such products; or

(II) to sell such products, or copies of such products, for profit to the entities referred to in clause (i).

(42 U.S.C. 2991b–3)

TECHNICAL ASSISTANCE AND TRAINING

SEC. 804. The Commissioner shall provide, directly or through other arrangements—

(1) technical assistance to the public and private agencies in planning, developing, conducting, and administering projects under this title;

(2) short-term in-service training for specialized or other personnel that is needed in connection with projects receiving financial assistance under this title; and

(3) upon denial of a grant application, technical assistance to a potential grantee in revising a grant proposal.

(42 U.S.C. 2991c)

RESEARCH, DEMONSTRATION, AND PILOT PROJECTS

SEC. 805. (a) The Commissioner may provide financial assistance through grants or contracts for research, demonstration, or pilot project conducted by public or private agencies which are designed to test or assist in the development of new approaches or methods that will aid in overcoming special problems or otherwise furthering the purposes of this title.

(b) The Commissioner shall establish an overall plan to govern the approval of research, demonstration, and pilot projects and the use of all research authority under this title. The plan shall set forth specific objectives to be achieved and priorities among such objectives.

(42 U.S.C. 2991d)

PANEL REVIEW OF APPLICATIONS FOR ASSISTANCE

SEC. 806. (a)(1) The Commissioner shall establish a formal panel review process for purposes of—

(A) evaluating applications for financial assistance under sections 803 and 805; and

(B) determining the relative merits of the projects for which such assistance is requested.

(2) To implement the process established under paragraph (1), the Commissioner shall appoint members of review panels from among individuals who are not officers or employees of the Administration for Native Americans. In making appointments to such

panels, the Commissioner shall give preference to American Indians, Native Hawaiians, and Alaska Natives.

(b) Each review panel appointed under subsection (a)(2) that reviews any application for financial assistance shall—

(1) determine the merit of each project described in such application;

(2) rank such application with respect to all other applications it reviews for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested; and

(3) submit to the Commissioner a list that identifies all applications reviewed by such panel and arranges such applications according to rank determined under paragraph (2).

(c) Upon the request of the chairman of the Committee on Indian Affairs of the Senate or of the chairman of the Committee on Education and Labor of the House of Representatives made with respect to any application for financial assistance under section 803 or 805, the Commissioner shall transmit to the chairman written notice—

(1) identifying such application;

(2) containing a copy of the list submitted to the Commissioner under subsection (b)(3) in which such application is ranked;

(3) specifying which other applications ranked in such list have been approved by the Commissioner under sections 803 and 805; and

(4) if the Commissioner has not approved each application superior in merit, as indicated on such list, to the application with respect to which such notice is transmitted, containing a statement of the reasons relied upon by the Commissioner for—

(A) approving the application with respect to which such notice is transmitted; and

(B) failing to approve each pending application that is superior in merit, as indicated on such list, to the application described in subparagraph (A).

(42 U.S.C. 2991d–1)

ANNOUNCEMENT OF RESEARCH, DEMONSTRATION, OR PILOT PROJECTS

SEC. 807. (a) The Commissioner shall make a public announcement concerning—

(1) the title, purpose, intended completion date, identity of the grantee or contractor, and proposed cost of any grant or contract with a private or non-Federal public agency for a research, demonstration, or pilot project; and

(2) except in cases in which the Commissioner determines that it would not be consistent with the purposes of this title, the result, findings, data, or recommendations made or reported as a result of such activities.

(b) The public announcement required by subsection (a) shall be made within thirty days of making such grant or contracts, and the public announcements required by subsection (b) of this section shall be made within thirty days of the receipt of such results.

(42 U.S.C. 2991e)

SUBMISSION OF PLANS TO STATE AND LOCAL OFFICIALS

SEC. 808. (a) No financial assistance may be provided to any project under section 803 of this title or any research, demonstration, or pilot project under section 805 of this title, which is to be carried out on or in an Indian reservation or Alaska Native village, unless a plan setting forth the project has been submitted to the governing body of that reservation or village and the plan has not been disapproved by the governing body within thirty days of its submission.

(b) No financial assistance may be provided to any project under section 803 of this title or any research, demonstration, or pilot project under section 805 of this title, which is to be carried out in a State or Territory other than on or in an Indian reservation or Alaska Native village or Hawaiian Homestead, unless the Commissioner has notified the chief executive officer of the State or Territory of the decision of the Commissioner to provide that assistance.

(c) No financial assistance may be provided to any project under section 803 of this title or any research, demonstration, or pilot project under section 805 of this title, which is to be carried out in a city, county, or other major political subdivision of a State or Territory, other than on or in an Indian reservation or Alaska Native village, or Hawaiian Homestead, unless the Commissioner has notified the local governing officials of the political subdivision of the decision of the Commissioner to provide that assistance.

(42 U.S.C. 2991f)

RECORDS AND AUDITS

SEC. 809. (a) Each agency which receives financial assistance under this title shall keep such records as the Commissioner may prescribe, including records which fully disclose the amount and disposition by that agency of such financial assistance, the total cost of the project in connection with which such financial assistance is given or used, the amount of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Commissioner and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any agency which receives financial assistance under this title that are pertinent to the financial assistance received under this title.

(42 U.S.C. 2991g)

APPEALS, NOTICE, AND HEARING

SEC. 810. (a) The Commissioner shall prescribe procedures to assure that—

(1) financial assistance under this title shall not be suspended, except in emergency situations, unless the assisted agency has been given reasonable notice and opportunity to show cause why such action should not be taken; and

(2) financial assistance under this title shall not be terminated, and application for refunding shall not be denied, and

a suspension of financial assistance shall not be continued for longer than thirty days, unless the assisted agency has been afforded reasonable notice and opportunity for a full and fair hearing.

(b) If an application is rejected on the grounds that the applicant is ineligible or that activities proposed by the applicant are ineligible for funding, the applicant may appeal to the Secretary, not later than 30 days after the date of receipt of notification of such rejection, for a review of the grounds for such rejection. On appeal, if the Secretary finds that an applicant is eligible or that its proposed activities are eligible, such eligibility shall not be effective until the next cycle of grant proposals are considered by the Administration.

(42 U.S.C. 2991h)

EVALUATION

SEC. 811. (a)(1) The Commissioner shall provide, directly or through grants or contracts, for the evaluation of projects assisted under this title, including evaluations that describe and measure the impact of such projects, their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services, including, where appropriate, comparisons with appropriate control groups composed of persons who have not participated in such projects. Evaluations shall be conducted by persons not directly involved in the administration of the program or project evaluated.

(2) The projects assisted under this title shall be evaluated in accordance with this section not less frequently than at 3-year intervals.

(b) Prior to obligating funds for the programs and projects covered by this title with respect to fiscal year 1976, the Commissioner shall develop and publish general standards for evaluation of program and project effectiveness in achieving the objectives of this title. The extent to which such standards have been met shall be considered in deciding whether to renew or supplement financial assistance authorized under this title.

(c) In carrying out evaluations under this title, the Commissioner may require agencies which receive assistance under this title to provide for independent evaluations.

(d) In carrying out evaluations under this title, the Commissioner shall, whenever feasible, arrange to obtain the specific views of persons participating in and served by programs and projects assisted under this title about such programs and projects.

(e) The Commissioner shall publish the results of evaluative research and summaries of evaluations of program and project impact and effectiveness not later than ninety days after the completion thereof. The Commissioner shall submit to the appropriate committees of the Congress copies of all such research studies and evaluation summaries.

(f) The Commissioner shall take the necessary action to assure that all studies, evaluations, proposals, and data produced or developed with assistance under this title shall become the property of the United States.

(42 U.S.C. 2992)

ANNUAL REPORT

SEC. 811A. The Secretary shall, not later than January 31 of each year, prepare and transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives an annual report on the social and economic conditions of American Indians, Native Hawaiians, other Native American Pacific Islanders (including American Samoan Natives), and Alaska Natives, together with such recommendations to Congress as the Secretary considers to be appropriate.

(42 U.S.C. 2992–1)

LABOR STANDARDS

SEC. 812. All laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting or decorating, of buildings or other facilities in connection with projects assisted under this title, shall be paid wages at rates not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950, and section 2 of the Act of June 1, 1934.

(42 U.S.C. 2992a)

STAFF

SEC. 812A. In all personnel actions of the Administration, preference shall be given to individuals who are eligible for assistance under this title. Such preference shall be implemented in the same fashion as the preference given to veterans referred to in section 2108(3)(C) of title 5, United States Code. The Commissioner shall take such additional actions as may be necessary to promote recruitment of such individuals for employment in the Administration.

(42 U.S.C. 2992a–1)

ADMINISTRATION

SEC. 813. Nothing in this title shall be construed to prohibit interagency funding agreements made between the Administration and other agencies of the Federal Government for the development and implementation of specific grants or projects.

(42 U.S.C. 2992b)

ADDITIONAL REQUIREMENTS APPLICABLE TO RULEMAKING

SEC. 814. (a) Notwithstanding subsection (a) of section 553 of title 5, United States Code, and except as otherwise provided in this section, such section 553 shall apply with respect to the establishment and general operation of any program that provides loans, grants, benefits, or contracts authorized by this title.

(b)(1) Subparagraph (A) of the last sentence of section 553(b) of title 5, United States Code, shall not apply with respect to any interpretative rule or general statement of policy—

(A) proposed under this title; or

(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this title.

(2) Subparagraph (B) of the last sentence of section 553(b) of title 5, United States Code, shall not apply with respect to any rule (other than an interpretative rule or a general statement of policy)—

(A) proposed under this title; or

(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this title.

(3) The first 2 sentences of section 553(b) of title 5, United States Code, shall apply with respect to any rule (other than an interpretative rule, a general statement of policy, or a rule of agency organization, procedure, or practice) that is—

(A) proposed under this title; or

(B) applicable exclusively to any program, project, or activity authorized by, or carried out under, this title;

unless the Secretary for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in such rule) that notice and public procedure thereon are contrary to the public interest or would impair the effective administration of any program, project, or activity with respect to which such rule is issued.

(c) Notwithstanding section 553(d) of title 5, United States Code, no rule (including an interpretative rule) or general statement of policy that—

(1) is issued to carry out this title; or

(2) applies exclusively to any program, project, or activity authorized by, or carried out under, this title;

may take effect until 30 days after the publication required under the first 2 sentences of section 553(b) of title 5, United States Code.

(d) Each rule (including an interpretative rule) and each general statement of policy to which this section applies shall contain after each of its sections, paragraphs, or similar textual units a citation to the particular provision of statutory or other law that is the legal authority for such section, paragraph, or unit.

(e) Except as provided in subsection (c), if as a result of the enactment of any law affecting the administration of this title it is necessary or appropriate for the Secretary to issue any rule (including any interpretative rule) or a general statement of policy, the Secretary shall issue such rule or such general statement of policy not later than 180 days after the date of the enactment of such law.

(f) Whenever an agency publishes in the Federal Register a rule (including an interpretative rule) or a general statement of policy to which subsection (c) applies, such agency shall transmit a copy of such rule or such general statement of policy to the Speaker of the House of Representatives and the President pro tempore of the Senate.

(42 U.S.C. 2992b–1)

DEFINITIONS

SEC. 815. As used in this title, the term—

(1) "financial assistance" includes assistance advanced by grant, agreement, or contract, but does not include the procurement of plant or equipment, or goods or services;

(2) "Indian reservation or Alaska Native village" includes the reservation of any federally or State recognized Indian tribe, including any band, nation, pueblo, or rancheria, any former reservation in Oklahoma, any community under the jurisdiction of an Indian tribe, including a band, nation, pueblo, or rancheria, with allotted lands or lands subject to a restriction against alienation imposed by the United States or a State, and any lands of or under the jurisdiction of an Alaska Native village or group, including any lands selected by Alaska Natives or Alaska Natives organizations under the Alaska Native Claims Settlement Act;

(3) "Native Hawaiian" means any individual any of whose ancestors were natives of the area which consists of the Hawaiian Islands prior to 1778;

(4) the term "rule" has the meaning given it in section 551(4) of title 5, United States Code, as amended from time to time;

(5) "Secretary" means the Secretary of Health and Human Services; and

(6) the term "Native American Pacific Islander" means an individual who is indigenous to a United States territory or possession located in the Pacific Ocean, and includes such individual while residing in the United States.

(42 U.S.C. 2992c)

AUTHORIZATION OF APPROPRIATIONS

SEC. 816. (a) There are authorized to be appropriated for the purpose of carrying out the provisions of this title (other than sections 803(d), 803A, 803C, 804, subsection (e) of this section, and any other provision of this title for which there is an express authorization of appropriations), such sums as may be necessary for each of fiscal years 1999, 2000, 2001, and 2002.

(b) Not less than 90 per centum of the funds made available to carry out the provisions of this title (other than sections 803(d), 803A, 803C, 804, subsection (e) of this section, and any other provision of this title for which there is an express authorization of appropriations) for a fiscal year shall be expended to carry out section 803(a) for such fiscal year.

(c) There is authorized to be appropriated $8,000,000 for each of fiscal years 1999, 2000, 2001, and 2002, for the purpose of carrying out the provisions of section 803(d).

(d)(1) For fiscal year 1994, there are authorized to be appropriated such sums as may be necessary for the purpose of—

(A) establishing demonstration projects to conduct research related to Native American studies and Indian policy development; and

(B) continuing the development of a detailed plan, based in part on the results of the projects, for the establishment of a National Center for Native American Studies and Indian Policy Development.

(2) Such a plan shall be delivered to the Congress not later than 30 days after the date of enactment of this subsection.

(e) There are authorized to be appropriated to carry out section 803C such sums as may be necessary for each of fiscal years 1999, 2000, 2001, and 2002.

(42 U.S.C. 2992d)

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JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

(Public Law 93–415; 88 Stat. 1109)

AN ACT To provide a comprehensive, coordinated approach to the problems of juvenile delinquency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Juvenile Justice and Delinquency Prevention Act of 1974".

(42 U.S.C. 5601 note)

TITLE I—FINDINGS AND DECLARATION OF PURPOSE

FINDINGS

SEC. 101. (a) The Congress finds the following:

(1) Although the juvenile violent crime arrest rate in 1999 was the lowest in the decade, there remains a consensus that the number of crimes and the rate of offending by juveniles nationwide is still too high.

(2) According to the Office of Juvenile Justice and Delinquency Prevention, allowing 1 youth to leave school for a life of crime and of drug abuse costs society $1,700,000 to $2,300,000 annually.

(3) One in every 6 individuals (16.2 percent) arrested for committing violent crime in 1999 was less than 18 years of age. In 1999, juveniles accounted for 9 percent of murder arrests, 17 percent of forcible rape arrests, 25 percent of robbery arrest, 14 percent of aggravated assault arrests, and 24 percent of weapons arrests.

(4) More than ½ of juvenile murder victims are killed with firearms. Of the nearly 1,800 murder victims less than 18 years of age, 17 percent of the victims less than 13 years of age were murdered with a firearm, and 81 percent of the victims 13 years of age or older were killed with a firearm.

(5) Juveniles accounted for 13 percent of all drug abuse violation arrests in 1999. Between 1990 and 1999, juvenile arrests for drug abuse violations rose 132 percent.

(6) Over the last 3 decades, youth gang problems have increased nationwide. In the 1970's, 19 States reported youth gang problems. By the late 1990's, all 50 States and the District of Columbia reported gang problems. For the same period, the number of cities reporting youth gang problems grew 843 percent, and the number of counties reporting gang problems increased more than 1,000 percent.

(7) According to a national crime survey of individuals 12 years of age or older during 1999, those 12 to 19 years old are victims of violent crime at higher rates than individuals in all other age groups. Only 30.8 percent of these violent victimizations were reported by youth to police in 1999.

(8) One-fifth of juveniles 16 years of age who had been arrested were first arrested before attaining 12 years of age. Juveniles who are known to the juvenile justice system before attaining 13 years of age are responsible for a disproportionate share of serious crimes and violence.

(9) The increase in the arrest rates for girls and young juvenile offenders has changed the composition of violent offenders entering the juvenile justice system.

(10) These problems should be addressed through a 2-track common sense approach that addresses the needs of individual juveniles and society at large by promoting—

(A) quality prevention programs that—

(i) work with juveniles, their families, local public agencies, and community-based organizations, and take into consideration such factors as whether or not juveniles have been the victims of family violence (including child abuse and neglect); and

(ii) are designed to reduce risks and develop competencies in at-risk juveniles that will prevent, and reduce the rate of, violent delinquent behavior; and

(B) programs that assist in holding juveniles accountable for their actions and in developing the competencies necessary to become responsible and productive members of their communities, including a system of graduated sanctions to respond to each delinquent act, requiring juveniles to make restitution, or perform community service, for the damage caused by their delinquent acts, and methods for increasing victim satisfaction with respect to the penalties imposed on juveniles for their acts.

(11) Coordinated juvenile justice and delinquency prevention projects that meet the needs of juveniles through the collaboration of the many local service systems juveniles encounter can help prevent juveniles from becoming delinquent and help delinquent youth return to a productive life.

(b) Congress must act now to reform this program by focusing on juvenile delinquency prevention programs, as well as programs that hold juveniles accountable for their acts and which provide opportunities for competency development. Without true reform, the juvenile justice system will not be able to overcome the challenges it will face in the coming years when the number of juveniles is expected to increase by 18 percent between 2000 and 2030.

(42 U.S.C. 5601)

PURPOSES

SEC. 102. The purposes of this title and title II are—

(1) to support State and local programs that prevent juvenile involvement in delinquent behavior;

(2) to assist State and local governments in promoting public safety by encouraging accountability for acts of juvenile delinquency; and

(3) to assist State and local governments in addressing juvenile crime through the provision of technical assistance, research, training, evaluation, and the dissemination of information on effective programs for combating juvenile delinquency.

(42 U.S.C. 5602)

DEFINITIONS

SEC. 103. For purposes of this Act—

(1) the term "community based" facility, program, or service means a small, open group home or other suitable place located near the juvenile's home or family and programs of community supervision and service which maintain community and consumer participation in the planning operation, and evaluation of their programs which may include, but are not limited to, medical, educational, vocational, social, and psychological guidance, training, special education, counseling, alcoholism treatment, drug treatment, and other rehabilitative services;

(2) the term "Federal juvenile delinquency program" means any juvenile delinquency program which is conducted, directly, or indirectly, or is assisted by any Federal department or agency, including any program funded under this Act;

(3) the term "juvenile delinquency program" means any program or activity related to juvenile delinquency prevention, control, diversion, treatment, rehabilitation, planning, education, training, and research, including drug and alcohol abuse programs; the improvement of the juvenile justice system; and any program or activity designed to reduce known risk factors for juvenile delinquent behavior, provides activities that build on protective factors for, and develop competencies in, juveniles to prevent, and reduce the rate of, delinquent juvenile behavior;

(4)(A) the term "Bureau of Justice Assistance" means the bureau established by section 401 of title I of the Omnibus Crime Control and Safe Streets Act of 1968; [1]

(B) the term "Office of Justice Programs" means the office established by section 101 of title I of the Omnibus Crime Control and Safe Streets Act of 1968; [2]

(C) the term "National Institute of Justice" means the institute established by section 202(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968; [3] and

(D) the term "Bureau of Justice Statistics" means the bureau established by section 302(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968; [4]

(5) the term "Administrator" means the agency head designated by section 201(b);

[1] (42 U.S.C. 3741).
[2] (42 U.S.C. 3711).
[3] (42 U.S.C. 3721).
[4] (42 U.S.C. 3732).

(6) the term "law enforcement and criminal justice" means any activity pertaining to crime prevention, control, or reduction or the enforcement of the criminal law, including, but not limited to police efforts to prevent, control, or reduce crime or to apprehend criminals, activities of courts having criminal jurisdiction and related agencies (including prosecutorial and defender services), activities of corrections, probation, or parole authorities, and programs relating to the prevention, control, or reduction of juvenile delinquency or narcotic addiction;

(7) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands;

(8) the term "unit of local government" means—

(A) any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State;

(B) any law enforcement district or judicial enforcement district that—

(i) is established under applicable State law; and

(ii) has the authority to, in a manner independent of other State entities, establish a budget and raise revenues;

(C) an Indian Tribe that performs law enforcement functions, as determined by the Secretary of the Interior; or

(D) for the purposes of assistance eligibility, any agency of the government of the District of Columbia or the Federal Government that performs law enforcement functions in and for—

(i) the District of Columbia; or

(ii) any Trust Territory of the United States;

(9) the term "combination" as applied to States or units of local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a juvenile justice and delinquency prevention plan;

(10) the term "construction" means acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings, or any combination of such activities (including architects' fees but not the cost of acquisition of land for buildings);

(11) the term "public agency" means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing;

(12) the term "secure detention facility" means any public or private residential facility which—

(A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and

(B) is used for the temporary placement of any juvenile who is accused of having committed an offense or of any other individual accused of having committed a criminal offense;

(13) the term "secure correctional facility" means any public or private residential facility which—

(A) includes construction fixtures designed to physically restrict the movements and activities of juveniles or other individuals held in lawful custody in such facility; and

(B) is used for the placement, after adjudication and disposition, of any juvenile who has been adjudicated as having committed an offense or any other individual convicted of a criminal offense;

(14) the term "serious crime" means criminal homicide, forcible rape or other sex offenses punishable as a felony, mayhem, kidnapping, aggravated assault, drug trafficking, robbery, larceny or theft punishable as a felony, motor vehicle theft, burglary or breaking and entering, extortion accompanied by threats of violence, and arson punishable as a felony;

(15) the term "treatment" includes but is not limited to medical, educational, special education, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public, including services designed to benefit addicts and other users by eliminating their dependence on alcohol or other addictive or nonaddictive drugs or by controlling their dependence and susceptibility to addiction or use;

(16) the term "valid court order" means a court order given by a juvenile court judge to a juvenile—

(A) who was brought before the court and made subject to such order; and

(B) who received, before the issuance of such order, the full due process rights guaranteed to such juvenile by the Constitution of the United States;

(17) the term "Council" means the Coordinating Council on Juvenile Justice and Delinquency Prevention established in section 206(a)(1);

(18) the term "Indian tribe" means—

(A) a federally recognized Indian tribe; or

(B) an Alaskan Native organization;

(19) the term "comprehensive and coordinated system of services" means a system that—

(A) ensures that services and funding for the prevention and treatment of juvenile delinquency are consistent with policy goals of preserving families and providing appropriate services in the least restrictive environment so as to simultaneously protect juveniles and maintain public safety;

(B) identifies, and intervenes early for the benefit of, young children who are at risk of developing emotional or behavioral problems because of physical or mental stress or abuse, and for the benefit of their families;

(C) increases interagency collaboration and family involvement in the prevention and treatment of juvenile delinquency; and

(D) encourages private and public partnerships in the delivery of services for the prevention and treatment of juvenile delinquency;

(20) the term "gender-specific services" means services designed to address needs unique to the gender of the individual to whom such services are provided;

(21) the term "home-based alternative services" means services provided to a juvenile in the home of the juvenile as an alternative to incarcerating the juvenile, and includes home detention;

(22) the term "jail or lockup for adults" means a locked facility that is used by a State, unit of local government, or any law enforcement authority to detain or confine adults—

(A) pending the filing of a charge of violating a criminal law;

(B) awaiting trial on a criminal charge; or

(C) convicted of violating a criminal law;

(23) the term "nonprofit organization" means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986;

(24) the term "graduated sanctions" means an accountability-based, graduated series of sanctions (including incentives, treatment, and services) applicable to juveniles within the juvenile justice system to hold such juveniles accountable for their actions and to protect communities from the effects of juvenile delinquency by providing appropriate sanctions for every act for which a juvenile is adjudicated delinquent, by inducing their law-abiding behavior, and by preventing their subsequent involvement with the juvenile justice system;

(25) the term "contact" means the degree of interaction allowed between juvenile offenders in a secure custody status and incarcerated adults under section 31.303(d)(1)(i) of title 28, Code of Federal Regulations, as in effect on December 10, 1996;

(26) the term "adult inmate" means an individual who—

(A) has reached the age of full criminal responsibility under applicable State law; and

(B) has been arrested and is in custody for or awaiting trial on a criminal charge, or is convicted of a criminal offense;

(27) the term "violent crime" means—

(A) murder or nonnegligent manslaughter, forcible rape, or robbery, or

(B) aggravated assault committed with the use of a firearm;

(28) the term "collocated facilities" means facilities that are located in the same building, or are part of a related complex of buildings located on the same grounds; and

(29) the term "related complex of buildings" means 2 or more buildings that share—

(A) physical features, such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer); or

(B) the specialized services that are allowable under section 31.303(e)(3)(i)(C)(3) of title 28 of the Code of Federal Regulations, as in effect on December 10, 1996.

(42 U.S.C. 5603)

TITLE II—JUVENILE JUSTICE AND DELINQUENCY PREVENTION

PART A—JUVENILE JUSTICE AND DELINQUENCY PREVENTION OFFICE

ESTABLISHMENT OF OFFICE

SEC. 201. (a) There is hereby established an Office of Juvenile Justice and Delinquency Prevention (hereinafter in this division referred to as the "Office") within the Department of Justice under the general authority of the Attorney General.

(b) The Office shall be headed by an Administrator (hereinafter in this title referred to as the "Administrator") appointed by the President, by and with the advice and consent of the Senate, from among individuals who have had experience in juvenile justice programs. The Administrator is authorized to prescribe regulations consistent with this Act to award, administer, modify, extend, terminate, monitor, evaluate, reject, or deny all grants and contracts from, and applications for, funds made available under this title. The Administrator shall have the same reporting relationship with the Attorney General as the directors of other offices and bureaus within the Office of Justice Programs have.[1]

(c) There shall be in the Office a Deputy Administrator who shall be appointed by the Attorney General. The Deputy Administrator shall perform such functions as the Administrator may from time to time assign or delegate and shall act as the Administrator during the absence or disability of the Administrator.

(42 U.S.C. 5611)

PERSONNEL, SPECIAL PERSONNEL, EXPERTS, AND CONSULTANTS

SEC. 202. (a) The Administrator is authorized to select, employ, and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions vested in the Administrator and to prescribe their functions.

(b) The Administrator is authorized to select, appoint, and employ not to exceed three officers and to fix their compensation at rates not to exceed the rate now or hereafter payable under section 5376 of title 5 of the United States Code.

(c) Upon the request of the Administrator, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of its personnel to the Administrator to assist the Administrator in carrying out the functions of the Administrator under this title.

(d) The Administrator may obtain services as authorized by section 3109 of title 5 of the United States Code, at rates not to exceed the rate now or hereafter payable under section 5376 of title 5 of the United States Code.

(42 U.S.C. 5612)

VOLUNTARY SERVICE

SEC. 203. The Administrator is authorized to accept and employ, in carrying out the provisions of this Act, voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)).

[1] (42 U.S.C. 3711–3712).

(42 U.S.C. 5613)

CONCENTRATION OF FEDERAL EFFORTS

SEC. 204. (a)(1) The Administrator shall develop objectives, priorities, and a long-term plan, and implement overall policy and a strategy to carry out such plan, for all Federal juvenile delinquency programs and activities relating to prevention, diversion, training, treatment, rehabilitation, evaluation, research, and improvement of the juvenile justice system in the United States. In carrying out the functions of the Administrator, the Administrator shall consult with the Council.

(2)(A) The plan described in paragraph (1) shall—

(i) contain specific goals and criteria for making grants and contracts, for conducting research, and for carrying out other activities under this title; and

(ii) provide for coordinating the administration programs and activities under this title with the administration of all other Federal juvenile delinquency programs and activities, including proposals for joint funding to be coordinated by the Administrator.

(B) The Administrator shall review the plan described in paragraph (1) annually, revise the plan as the Administrator considers appropriate, and publish the plan in the Federal Register—

(i) not later than 240 days after the date of enactment of this paragraph, in the case of the initial plan required by paragraph (1); and

(ii) except as provided in clause (i), in the 30-day period ending on October 1 of each year.

(b) In carrying out the purposes of this Act, the Administrator shall—

(1) advise the President through the Attorney General as to all matters relating to federally assisted juvenile deliquency programs and Federal policies regarding juvenile delinquency;

(2) assist operating agencies which have direct responsibilities for the prevention and treatment of juvenile delinquency in the development and promulgation of regulations, guidelines, requirements, criteria, standards, procedures, and budget requests in accordance with the policies, priorities, and objectives the Administrator establishes;

(3) conduct and support evaluations and studies of the performance and results achieved by Federal juvenile delinquency programs and activities;

(4) implement Federal juvenile delinquency programs and activities among Federal departments and agencies and between Federal juvenile delinquency programs and activities and other Federal programs and activities which the Administrator determines may have an important bearing on the success of the entire Federal juvenile delinquency effort;

(5)(A) develop for each fiscal year, and publish annually in the Federal Register for public comment, a proposed comprehensive plan describing the particular activities which the Administrator intends to carry out under parts D and E in such fiscal year, specifying in detail those activities designed to satisfy the requirements of parts D and E; and

(B) taking into consideration comments received during the 45-day period beginning on the date the proposed plan is published, develop and publish a final plan, before December 31 of such fiscal year, describing the particular activities which the Administrator intends to carry out under parts D and E in such fiscal year, specifying in detail those activities designed to satisfy the requirements of parts D and E;

(6) provide for the auditing of monitoring systems required under section 223(a)(15)[1] to review the adequacy of such systems; and

(7) not later than 1 year after the date of the enactment of this paragraph, issue model standards for providing mental health care to incarcerated juveniles.

(c) The Administrator may require, through appropriate authority, Federal departments and agencies engaged in any activity involving any Federal juvenile delinquency program to provide the Administrator with such information as may be appropriate to prevent the duplication of efforts, and to coordinate activities, related to the prevention of juvenile delinquency.

(d) The Administrator shall have the sole authority to delegate any of the functions of the Administrator under this Act.

(e) The Administrator is authorized to utilize the services and facilities of any agency of the Federal Government and of any other public agency or institution in accordance with appropriate agreements, and to pay for such services either in advance or by way of reimbursement as may be agreed upon.

(f) All functions of the Administrator under this title shall be coordinated as appropriate with the functions of the Secretary of Health and Human Services under title III of this Act.

(42 U.S.C. 5614)

JOINT FUNDING

SEC. 205. Notwithstanding any other provision of law, where funds are made available by more than one Federal agency to be used by any agency, organization, institution, or individual to carry out a Federal juvenile delinquency program or activity, any one of the Federal agencies providing funds may be requested by the Administrator to act for all in administering the funds advanced whenever the Administrator finds the program or activity to be exceptionally effective or for which the Administrator finds exceptional need. In such cases, a single non-Federal share requirement may be established according to the proportion of funds advanced by each Federal agency, and the Administrator may order any such agency to waive any technical grant or contract requirement (as defined in such regulations) which is inconsistent with the similar requirement of the administering agency or which the administering agency does not impose.

(42 U.S.C. 5615)

[1] Section 12209(1)(S) of Public Law 107–273 redesignated paragraph (15) of section 223(a) as paragraph (14), but that law failed to make a conforming amendment to this reference. The reference should be to section 223(a)(14).

COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION

SEC. 206. (a)(1) There is hereby established, as an independent organization in the executive branch of the Federal Government a Coordinating Council on Juvenile Justice and Delinquency Prevention composed of the Attorney General, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Education, the Secretary of Housing and Urban Development, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Director of the Office of National Drug Control Policy, the Chief Executive Officer of the Corporation for National and Community Service, the Commissioner of Immigration and Naturalization, such other officers of Federal agencies who hold significant decisionmaking authority as the President may designate, and individuals appointed under paragraph (2).

(2)(A) Nine members shall be appointed, without regard to political affiliation, to the Council in accordance with this paragraph from among individuals who are practitioners in the field of juvenile justice and who are not officers or employees of the United States.

(B)(i) Three members shall be appointed by the Speaker of the House of Representatives, after consultation with the minority leader of the House of Representatives.

(ii) Three members shall be appointed by the majority leader of the Senate, after consultation with the minority leader of the Senate.

(iii) Three members shall be appointed by the President.

(C)(i) Of the members appointed under each of clauses (i), (ii), and (iii)—

(I) 1 shall be appointed for a term of 1 year;

(II) 1 shall be appointed for a term of 2 years; and

(III) 1 shall be appointed for a term of 3 years;

as designated at the time of appointment.

(ii) Except as provided in clause (iii), a vacancy arising during the term for which an appointment is made may be filled only for the remainder of such term.

(iii) After the expiration of the term for which a member is appointed, such member may continue to serve until a successor is appointed.

(b) The Attorney General shall serve as Chairman of the Council. The Administrator of the Office of Juvenile Justice and Delinquency Prevention shall serve as Vice Chairman of the Council. The Vice Chairman shall act as Chairman in the absence of the Chairman.

(c)(1) The function of the Council shall be to coordinate all Federal juvenile delinquency programs (in cooperation with State and local juvenile justice programs)[1] all Federal programs and activities that detain or care for unaccompanied juveniles, and all Federal programs relating to missing and exploited children. The Council shall examine how the separate programs can be coordinated among Federal, State, and local governments to better serve at-risk children and juveniles and shall make recommendations to

[1] Error in amendment made by section 2(d)(2)(B) of Public Law 102–586. Should insert a comma.

the President and to the Congress at least annually with respect to the coordination of overall policy and development of objectives and priorities for all Federal juvenile delinquency programs and activities and all Federal programs and activities that detain or care for unaccompanied juveniles. The Council shall review the programs and practices of Federal agencies and report on the degree to which Federal agency funds are used for purposes which are consistent or inconsistent with the mandates of paragraphs (12)(A), (13), and (14) of section 223(a) of this title. The Council shall review, and make recommendations with respect to, any joint funding proposal undertaken by the Office of Juvenile Justice and Delinquency Prevention and any agency represented on the Council. The Council shall review the reasons why Federal agencies take juveniles into custody and shall make recommendations regarding how to improve Federal practices and facilities for holding juveniles in custody.

(2) In addition to performing their functions as members of the Council, the members appointed under subsection (a)(2) shall collectively—

(A) make recommendations regarding the development of the objectives, priorities, and the long-term plan, and the implementation of overall policy and the strategy to carry out such plan, referred to in section 204(a)(1); and

(B) not later than 180 days after the date of the enactment of this paragraph, submit such recommendations to the Administrator, the Chairman of the Committee on Education and the Workforce of the House of Representatives, and the Chairman of the Committee on the Judiciary of the Senate.

(d) The Council shall meet at least quarterly.

(e) The Administrator shall, with the approval of the Council, appoint such personnel or staff support as the Administrator considers necessary to carry out the purposes of this title.

(f) Members appointed under subsection (a)(2) shall serve without compensation. Members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Council.

(g) Of sums available to carry out this part, not more than $200,000 shall be available to carry out this section.

(42 U.S.C. 5616)

ANNUAL REPORT

SEC. 207. Not later than 180 days after the end of a fiscal year, the Administrator shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report that contains the following with respect to such fiscal year:

(1) A detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody, the rate at which juveniles are taken into custody, and the trends demonstrated by the data required by subparagraphs (A), (B), and (C). Such summary and analysis shall set out the information required by subparagraphs (A), (B), (C), and (D) separately for juvenile nonoffenders, juvenile status offenders, and other juvenile offenders. Such summary and anal-

ysis shall separately address with respect to each category of juveniles specified in the preceding sentence—

(A) the types of offenses with which the juveniles are charged;

(B) the race and gender of the juveniles;

(C) the ages of the juveniles;

(D) the types of facilities used to hold the juveniles (including juveniles treated as adults for purposes of prosecution) in custody, including secure detention facilities, secure correctional facilities, jails, and lockups;

(E) the number of juveniles who died while in custody and the circumstances under which they died; and

(F) the educational status of juveniles, including information relating to learning disabilities, failing performance, grade retention, and dropping out of school.

(2) A description of the activities for which funds are expended under this part, including the objectives, priorities, accomplishments, and recommendations of the Council.

(3) A description, based on the most recent data available, of the extent to which each State complies with section 223 and with the plan submitted under such section by the State for such fiscal year.

(4) An evaluation of the programs funded under this title and their effectiveness in reducing the incidence of juvenile delinquency, particularly violent crime, committed by juveniles.

(42 U.S.C. 5617)

PART B—FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS

AUTHORITY TO MAKE GRANTS AND CONTRACTS

SEC. 221. (a) The Administrator is authorized to make grants to States and units of local government [1] or combinations thereof to assist them in planning, establishing, operating, coordinating, and evaluating projects directly or through grants and contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system.

(b)(1) With not to exceed 2 percent of the funds available in a fiscal year to carry out this part, the Administrator shall make grants to and enter into contracts with public and private agencies, organizations, and individuals to provide technical assistance to States, units of general local governments (and combinations thereof), and local private agencies to facilitate compliance with section 223 and implementation of the State plan approved under section 223(c).

(2) Grants and contracts may be made under paragraph (1) only to public and private agencies, organizations, and individuals that have experience in providing such technical assistance.

(42 U.S.C. 5631)

[1] The amendment made by section 129(a)(2)(A) of Public Law 105–277 did not specify to strike out "units of general local government"and insert "units of local government" in subsection (b).

ALLOCATION

SEC. 222. (a)(1) Subject to paragraph (2) and in accordance with regulations promulgated under this part, funds shall be allocated annually among the States on the basis of relative population of people under age eighteen.

(2)(A) Subject to paragraph (3), if the aggregate amount appropriated for a fiscal year to carry out this title is less than $75,000,000, then the amount allocated to each State for such fiscal year shall be not less than $325,000, or such greater amount up to $400,000 as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 2000, except that the amount allocated to the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be not less than $75,000, or such greater amount up to $100,000 as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 2000, each.

(B) Subject to paragraph (3), if the aggregate amount appropriated for a fiscal year to carry out this title equals or exceeds $75,000,000, then the amount allocated to each State for such fiscal year shall be not less than $600,000, except that the amount allocated to the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be not less than $100,000, or such greater amount up to $100,000 as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 2000, each.

(3) If, as a result of paragraph (2), the amount allocated to a State for a fiscal year would be less than the amount allocated to such State for fiscal year 2000, then the amounts allocated to satisfy the requirements of such paragraph shall be reduced pro rata to the extent necessary to allocate to such State for the fiscal year the amount allocated to such State for fiscal year 2000.

(b) If any amount so allocated remains unobligated at the end of the fiscal year, such funds shall be reallocated in a manner equitable and consistent with the purpose of this part. Any amount so reallocated shall be in addition to the amounts already allocated and available to the State, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands for the same period.

(c) In accordance with regulations promulgated under this part, a portion of any allocation to any State under this part shall be available to develop a State plan or for other pre-award activities associated with such State plan, and to pay that portion of the expenditures which are necessary for efficient administration, including monitoring, evaluation, and one full-time staff position. Not more than 10 percent of the total annual allocation of such State shall be available for such purposes, except that any amount expended or obligated by such State, or by units of local government or any combination thereof, from amounts made available under this subsection shall be matched (in an amount equal to any such amount so expended or obligated) by such State, or by such units or combinations, from State or local funds, as the case may be. The

State shall make available needed funds for planning and administration to units of local government or combinations thereof within the State on an equitable basis.

(d) In accordance with regulations promulgated under this part, 5 per centum of the minimum annual allocation to any State under this part shall be available to assist the advisory group established under section 223(a)(3) of this Act.

(42 U.S.C. 5632)

STATE PLANS

SEC. 223. (a) In order to receive formula grants under this part, a State shall submit a plan for carrying out its purposes applicable to a 3-year period. Such plan shall be amended annually to include new programs, projects, and activities. The State shall submit annual performance reports to the Administrator which shall describe progress in implementing programs contained in the original plan, and shall describe the status of compliance with State plan requirements. In accordance with regulations which the Administrator shall prescribe, such plan shall—

(1) designate the State agency described in section 299(c)(1) as the sole agency for supervising the preparation and administration of the plan;

(2) contain satisfactory evidence that the state agency designated in accordance with paragraph (1) has or will have authority, by legislation if necessary, to implement such plan in conformity with this part;

(3) provide for an advisory group that—

(A) shall consist of not less than 15 and not more than 33 members appointed by the chief executive officer of the State—

(i) which members have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency, the administration of juvenile justice, or the reduction of juvenile delinquency;

(ii) which members include—

(I) at least 1 locally elected official representing general purpose local government;

(II) representatives of law enforcement and juvenile justice agencies, including juvenile and family court judges, prosecutors, counsel for children and youth, and probation workers;

(III) representatives of public agencies concerned with delinquency prevention or treatment, such as welfare, social services, mental health, education, special education, recreation, and youth services;

(IV) representatives of private nonprofit organizations, including persons with a special focus on preserving and strengthening families, parent groups and parent self-help groups, youth development, delinquency prevention and treatment, neglected or dependent children, the quality of juve-

nile justice, education, and social services for children;

(V) volunteers who work with delinquents or potential delinquents;

(VI) youth workers involved with programs that are alternatives to incarceration, including programs providing organized recreation activities;

(VII) persons with special experience and competence in addressing problems related to school violence and vandalism and alternatives to suspension and expulsion; and

(VIII) persons with special experience and competence in addressing problems related to learning disabilities, emotional difficulties, child abuse and neglect, and youth violence;

(iii) a majority of which members (including the chairperson) shall not be full-time employees of the Federal, State, or local government;

(iv) at least one-fifth of which members shall be under the age of 24 at the time of appointment; and

(v) at least 3 members who have been or are currently under the jurisdiction of the juvenile justice system;

(B) shall participate in the development and review of the State's juvenile justice plan prior to submission to the supervisory board for final action;

(C) shall be afforded the opportunity to review and comment, not later than 30 days after their submission to the advisory group, on all juvenile justice and delinquency prevention grant applications submitted to the State agency designated under paragraph (1);

(D) shall, consistent with this title—

(i) advise the State agency designated under paragraph (1) and its supervisory board; and [1]

(ii) submit to the chief executive officer and the legislature of the State at least annually recommendations regarding State compliance with the requirements of paragraphs (11), (12), and (13); and

(iii) contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system; and

(E) may, consistent with this title—

(i) advise on State supervisory board and local criminal justice advisory board composition; [2]

(ii) review progress and accomplishments of projects funded under the State plan.

(4) provide for the active consultation with and participation of units of local government or combinations thereof in the development of a State plan which adequately takes into account the needs and requests of units of local government, ex-

[1] Error in amendment made by section 12209(1)(B)(iii)(I) of Public Law 107–273. Should strike "and".

[2] Error in amendment made by section 2(f)(3)(A)(i)(III) of Public Law 102–586. Should insert "and".

cept that nothing in the plan requirements, or any regulations promulgated to carry out such requirements, shall be construed to prohibit or impede the State from making grants to, or entering into contracts with, local private agencies or the advisory group;

(5) unless the provisions of this paragraph are waived at the discretion of the Administrator for any State in which the services for delinquent or other youth are organized primarily on a statewide basis, provide that at least 66⅔ per centum of funds received by the State under section 222 reduced by the percentage (if any) specified by the State under the authority of paragraph (25) and excluding funds made available to the state advisory group under section 222(d), shall be expended—

(A) through programs of units of local government or combinations thereof, to the extent such programs are consistent with the State plan;

(B) through programs of local private agencies, to the extent such programs are consistent with the State plan, except that direct funding of any local private agency by a State shall be permitted only if such agency requests such funding after it has applied for and been denied funding by any unit of local government or combination thereof; and

(C) to provide funds for programs of Indian tribes that perform law enforcement functions (as determined by the Secretary of the Interior) and that agree to attempt to comply with the requirements specified in paragraphs (11), (12), and (13), applicable to the detention and confinement of juveniles, an amount that bears the same ratio to the aggregate amount to be expended through programs referred to in subparagraphs (A) and (B) as the population under 18 years of age in the geographical areas in which such tribes perform such functions bears to the State population under 18 years of age.

(6) provide for an equitable distribution of the assistance received under section 222 within the State, including in rural areas;

(7)(A) provide for an analysis of juvenile delinquency problems in, and the juvenile delinquency control and delinquency prevention needs (including educational needs) of, the State (including any geographical area in which an Indian tribe performs law enforcement functions), a description of the services to be provided, and a description of performance goals and priorities, including a specific statement of the manner in which programs are expected to meet the identified juvenile crime problems (including the joining of gangs that commit crimes) and juvenile justice and delinquency prevention needs (including educational needs) of the State; and

(B) contain—

(i) a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency;

(ii) a plan for providing needed services for the prevention and treatment of juvenile delinquency in rural areas; and

(iii) a plan for providing needed mental health services to juveniles in the juvenile justice system, including information on how such plan is being implemented and how such services will be targeted to those juveniles in such system who are in greatest need of such services;

(8) provide for the coordination and maximum utilization of existing juvenile delinquency programs, programs operated by public and private agencies and organizations, and other related programs (such as education, special education, recreation, health, and welfare programs) in the State;

(9) provide that not less than 75 percent of the funds available to the State under section 222, other than funds made available to the State advisory group under section 222(d), whether expended directly by the State, by the unit of local government, or by a combination thereof, or through grants and contracts with public or private nonprofit agencies, shall be used for—

(A) community-based alternatives (including home-based alternatives) to incarceration and institutionalization including—

(i) for youth who need temporary placement: crisis intervention, shelter, and after-care; and

(ii) for youth who need residential placement: a continuum of foster care or group home alternatives that provide access to a comprehensive array of services;

(B) community-based programs and services to work with—

(i) parents and other family members to strengthen families, including parent self-help groups, so that juveniles may be retained in their homes;

(ii) juveniles during their incarceration, and with their families, to ensure the safe return of such juveniles to their homes and to strengthen the families; and

(iii) parents with limited English-speaking ability, particularly in areas where there is a large population of families with limited-English speaking ability;

(C) comprehensive juvenile justice and delinquency prevention programs that meet the needs of youth through the collaboration of the many local systems before which a youth may appear, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies, and private nonprofit agencies offering youth services;

(D) programs that provide treatment to juvenile offenders who are victims of child abuse or neglect, and to their families, in order to reduce the likelihood that such juvenile offenders will commit subsequent violations of law;

(E) educational programs or supportive services for delinquent or other juveniles—

(i) to encourage juveniles to remain in elementary and secondary schools or in alternative learning situations;

(ii) to provide services to assist juveniles in making the transition to the world of work and self-sufficiency; and

(iii) enhance coordination with the local schools that such juveniles would otherwise attend, to ensure that—

(I) the instruction that juveniles receive outside school is closely aligned with the instruction provided in school; and

(II) information regarding any learning problems identified in such alternative learning situations are communicated to the schools;

(F) expanding the use of probation officers—

(i) particularly for the purpose of permitting nonviolent juvenile offenders (including status offenders) to remain at home with their families as an alternative to incarceration or institutionalization; and

(ii) to ensure that juveniles follow the terms of their probation;

(G) counseling, training, and mentoring programs, which may be in support of academic tutoring, vocational and technical training, and drug and violence prevention counseling, that are designed to link at-risk juveniles, juvenile offenders, or juveniles who have a parent or legal guardian who is or was incarcerated in a Federal, State, or local correctional facility or who is otherwise under the jurisdiction of a Federal, State, or local criminal justice system, particularly juveniles residing in low-income and high-crime areas and juveniles experiencing educational failure, with responsible individuals (such as law enforcement officials, Department of Defense personnel, individuals working with local businesses, and individuals working with community-based and faith-based organizations and agencies) who are properly screened and trained;

(H) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist community services, law enforcement, and juvenile justice personnel to more effectively recognize and provide for learning disabled and other juveniles with disabilities;

(I) projects designed both to deter involvement in illegal activities and to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of youth;

(J) programs and projects designed to provide for the treatment of youths' dependence on or abuse of alcohol or other addictive or nonaddictive drugs;

(K) programs for positive youth development that assist delinquent and other at-risk youth in obtaining—

(i) a sense of safety and structure;

(ii) a sense of belonging and membership;

(iii) a sense of self-worth and social contribution;

(iv) a sense of independence and control over one's life; and

(v) a sense of closeness in interpersonal relationships;

(L) programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, are designed to—

(i) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

(ii) assist in the provision by the provision [1] by the Administrator of information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior;

(M) community-based programs and services to work with juveniles, their parents, and other family members during and after incarceration in order to strengthen families so that such juveniles may be retained in their homes;

(N) programs (including referral to literacy programs and social service programs) to assist families with limited English-speaking ability that include delinquent juveniles to overcome language and other barriers that may prevent the complete treatment of such juveniles and the preservation of their families;

(O) programs designed to prevent and to reduce hate crimes committed by juveniles;

(P) after-school programs that provide at-risk juveniles and juveniles in the juvenile justice system with a range of age-appropriate activities, including tutoring, mentoring, and other educational and enrichment activities;

(Q) community-based programs that provide follow-up post-placement services to adjudicated juveniles, to promote successful reintegration into the community;

(R) projects designed to develop and implement programs to protect the rights of juveniles affected by the juvenile justice system; and

(S) programs designed to provide mental health services for incarcerated juveniles suspected to be in need of such services, including assessment, development of individualized treatment plans, and discharge plans. [2]

(10) provide for the development of an adequate research, training, and evaluation capacity within the State;

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[1] Error in amendment made by section 2(f)(3)(A)(i)(VI) of Public Law 102–586. Should strike "by the provision".

[2] Error in amendment made by section 12209(1)(H) of Public Law 107–273. The period at the end of subparagraph (S) should be a semicolon.

(11) shall, in accordance with rules issued by the Administrator, provide that—

(A) juveniles who are charged with or who have committed an offense that would not be criminal if committed by an adult, excluding—

(i) juveniles who are charged with or who have committed a violation of section 922(x)(2) of title 18, United States Code, or of a similar State law;

(ii) juveniles who are charged with or who have committed a violation of a valid court order; and

(iii) juveniles who are held in accordance with the Interstate Compact on Juveniles as enacted by the State;

shall not be placed in secure detention facilities or secure correctional facilities; and

(B) juveniles—

(i) who are not charged with any offense; and

(ii) who are—

(I) aliens; or

(II) alleged to be dependent, neglected, or abused;

shall not be placed in secure detention facilities or secure correctional facilities;

(12) provide that—

(A) juveniles alleged to be or found to be delinquent or juveniles within the purview of paragraph (11) will not be detained or confined in any institution in which they have contact with adult inmates; and

(B) there is in effect in the State a policy that requires individuals who work with both such juveniles and such adult inmates, including in collocated facilities, have been trained and certified to work with juveniles;

(13) provide that no juvenile will be detained or confined in any jail or lockup for adults except—

(A) juveniles who are accused of nonstatus offenses and who are detained in such jail or lockup for a period not to exceed 6 hours—

(i) for processing or release;

(ii) while awaiting transfer to a juvenile facility; or

(iii) in which period such juveniles make a court appearance;

and only if such juveniles do not have contact with adult inmates and only if there is in effect in the State a policy that requires individuals who work with both such juveniles and adult inmates in collocated facilities have been trained and certified to work with juveniles;

(B) juveniles who are accused of nonstatus offenses, who are awaiting an initial court appearance that will occur within 48 hours after being taken into custody (excluding Saturdays, Sundays, and legal holidays), and who are detained in a jail or lockup—

(i) in which—

(I) such juveniles do not have contact with adult inmates; and

(II) there is in effect in the State a policy that requires individuals who work with both such juveniles and adults inmates in collocated facilities have been trained and certified to work with juveniles; and

(ii) that—

(I) is located outside a metropolitan statistical area (as defined by the Office of Management and Budget) and has no existing acceptable alternative placement available;

(II) is located where conditions of distance to be traveled or the lack of highway, road, or transportation do not allow for court appearances within 48 hours (excluding Saturdays, Sundays, and legal holidays) so that a brief (not to exceed an additional 48 hours) delay is excusable; or

(III) is located where conditions of safety exist (such as severe adverse, life-threatening weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until 24 hours after the time that such conditions allow for reasonable safe travel;

(14) provide for an adequate system of monitoring jails, detention facilities, correctional facilities, and non-secure facilities to insure that the requirements of paragraphs (11), (12), and (13) are met, and for annual reporting of the results of such monitoring to the Administrator, except that such reporting requirements shall not apply in the case of a State which is in compliance with the other requirements of this paragraph, which is in compliance with the requirements in paragraphs (11) and (12), and which has enacted legislation which conforms to such requirements and which contains, in the opinion of the Administrator, sufficient enforcement mechanisms to ensure that such legislation will be administered effectively;

(15) provide assurance that youth in the juvenile justice system are treated equitably on the basis of gender, race, family income, and disability;

(16) provide assurance that consideration will be given to and that assistance will be available for approaches designed to strengthen the families of delinquent and other youth to prevent juvenile delinquency (which approaches should include the involvement of grandparents or other extended family members when possible and appropriate and the provision of family counseling during the incarceration of juvenile family members and coordination of family services when appropriate and feasible);

(17) provide for procedures to be established for protecting the rights of recipients of services and for assuring appropriate privacy with regard to records relating to such services provided to any individual under the State plan;

(18) provide assurances that—

(A) any assistance provided under this Act will not cause the displacement (including a partial displacement, such as a reduction in the hours of nonovertime work,

wages, or employment benefits) of any currently employed employee;

(B) activities assisted under this Act will not impair an existing collective bargaining relationship, contract for services, or collective bargaining agreement; and

(C) no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization involved;

(19) provide for such fiscal control and fund accounting procedures necessary to assure prudent use, proper disbursement, and accurate accounting of funds received under this title;

(20) provide reasonable assurances that Federal funds made available under this part for any period will be so used as to supplement and increase (but not supplant) the level of the State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs described in this part, and will in no event replace such State, local, and other non-Federal funds;

(21) provide that the State agency designated under paragraph (1) will—

(A) to the extent practicable give priority in funding to programs and activities that are based on rigorous, systematic, and objective research that is scientifically based;

(B) from time to time, but not less than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, that it considers necessary; and

(C) not expend funds to carry out a program if the recipient of funds who carried out such program during the preceding 2-year period fails to demonstrate, before the expiration of such 2-year period, that such program achieved substantial success in achieving the goals specified in the application submitted by such recipient to the State agency;

(22) address juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups, who come into contact with the juvenile justice system;",

(23) provide that if a juvenile is taken into custody for violating a valid court order issued for committing a status offense—

(A) an appropriate public agency shall be promptly notified that such juvenile is held in custody for violating such order;

(B) not later than 24 hours during which such juvenile is so held, an authorized representative of such agency shall interview, in person, such juvenile; and

(C) not later than 48 hours during which such juvenile is so held—

(i) such representative shall submit an assessment to the court that issued such order, regarding the immediate needs of such juvenile; and

(ii) such court shall conduct a hearing to determine—

(I) whether there is reasonable cause to believe that such juvenile violated such order; and

(II) the appropriate placement of such juvenile pending disposition of the violation alleged;

(24) provide an assurance that if the State receives under section 222 for any fiscal year an amount that exceeds 105 percent of the amount the State received under such section for fiscal year 2000, all of such excess shall be expended through or for programs that are part of a comprehensive and coordinated community system of services;

(25) specify a percentage (if any), not to exceed 5 percent, of funds received by the State under section 222 (other than funds made available to the State advisory group under section 222(d)) that the State will reserve for expenditure by the State to provide incentive grants to units of general local government that reduce the caseload of probation officers within such units;

(26) provide that the State, to the maximum extent practicable, will implement a system to ensure that if a juvenile is before a court in the juvenile justice system, public child welfare records (including child protective services records) relating to such juvenile that are on file in the geographical area under the jurisdiction of such court will be made known to such court;

(27) establish policies and systems to incorporate relevant child protective services records into juvenile justice records for purposes of establishing and implementing treatment plans for juvenile offenders; and

(28) provide assurances that juvenile offenders whose placement is funded through section 472 of the Social Security Act (42 U.S.C. 672) receive the protections specified in section 471 of such Act (42 U.S.C. 671), including a case plan and case plan review as defined in section 475 of such Act (42 U.S.C. 675).

(b) The State agency designated under subsection (a)(1), after receiving and considering the advice and recommendations of the advisory group referred to in subsection (a), shall approve the State plan and any modification thereof prior to submission to the Administrator.

(c) If a State fails to comply with any of the applicable requirements of paragraphs (11), (12), (13), and (22) of subsection (a) in any fiscal year beginning after September 30, 2001, then—

(1) subject to paragraph (2), the amount allocated to such State under section 222 for the subsequent fiscal year shall be reduced by not less than 20 percent for each such paragraph with respect to which the failure occurs, and

(2) the State shall be ineligible to receive any allocation under such section for such fiscal year unless—

(A) the State agrees to expend 50 percent of the amount allocated to the State for such fiscal year to

achieve compliance with any such paragraph with respect to which the State is in noncompliance; or

(B) the Administrator determines that the State—

(i) has achieved substantial compliance with such applicable requirements with respect to which the State was not in compliance; and

(ii) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance with such applicable requirements within a reasonable time.

(d) In the event that any State chooses not to submit a plan, fails to submit a plan, or submits a plan or any modification thereof, which the Administrator, after reasonable notice and opportunity for hearing, in accordance with sections 802, 803, and 804 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 [1], determines does not meet the requirements of this section, the Administrator shall endeavor to make that State's allocation under the provisions of section 222(a), excluding funds the Administrator shall make available to satisfy the requirement specified in section 222(d), available to local public and private non-profit agencies within such State for use in carrying out activities of the kinds described in paragraphs (11), (12), (13), and (22) of subsection (a). The Administrator shall make funds which remain available after disbursements are made by the Administrator under the preceding sentence, and any other unobligated funds, available on an equitable basis to those States that have achieved full compliance with the requirements under paragraphs (11), (12), (13), and (22) of subsection (a).

(e) Notwithstanding any other provision of law, the Administrator shall establish appropriate administrative and supervisory board membership requirements for a State agency designated under subsection (a)(1) and permit the State advisory group appointed under subsection (a)(3) to operate as the supervisory board for such agency, at the discretion of the chief executive officer of the State.

(f) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The Administrator shall provide technical and financial assistance to an eligible organization composed of member representatives of the State advisory groups appointed under subsection (a)(3) to assist such organization to carry out the functions specified in paragraph (2).

(2) ASSISTANCE.—To be eligible to receive such assistance, such organization shall agree to carry out activities that include—

(A) conducting an annual conference of such member representatives for purposes relating to the activities of such State advisory groups;

(B) disseminating information, data, standards, advanced techniques, and program models;

(C) reviewing Federal policies regarding juvenile justice and delinquency prevention;

(D) advising the Administrator with respect to particular functions or aspects of the work of the Office; and

[1] (42 U.S.C. 3783, 3784, 3785)

(E) advising the President and Congress with regard to State perspectives on the operation of the Office and Federal legislation pertaining to juvenile justice and delinquency prevention.

(42 U.S.C. 5633)

PART C—JUVENILE DELINQUENCY PREVENTION BLOCK GRANT PROGRAM

SEC. 241. AUTHORITY TO MAKE GRANTS.

(a) GRANTS TO ELIGIBLE STATES.—The Administrator may make grants to eligible States, from funds allocated under section 242, for the purpose of providing financial assistance to eligible entities to carry out projects designed to prevent juvenile delinquency, including—

(1) projects that provide treatment (including treatment for mental health problems) to juvenile offenders, and juveniles who are at risk of becoming juvenile offenders, who are victims of child abuse or neglect or who have experienced violence in their homes, at school, or in the community, and to their families, in order to reduce the likelihood that such juveniles will commit violations of law;

(2) educational projects or supportive services for delinquent or other juveniles—

(A) to encourage juveniles to remain in elementary and secondary schools or in alternative learning situations in educational settings;

(B) to provide services to assist juveniles in making the transition to the world of work and self-sufficiency;

(C) to assist in identifying learning difficulties (including learning disabilities);

(D) to prevent unwarranted and arbitrary suspensions and expulsions;

(E) to encourage new approaches and techniques with respect to the prevention of school violence and vandalism;

(F) which assist law enforcement personnel and juvenile justice personnel to more effectively recognize and provide for learning-disabled and other juveniles with disabilities;

(G) which develop locally coordinated policies and programs among education, juvenile justice, and social service agencies; or

(H) to provide services to juveniles with serious mental and emotional disturbances (SED) in need of mental health services;

(3) projects which expand the use of probation officers—

(A) particularly for the purpose of permitting nonviolent juvenile offenders (including status offenders) to remain at home with their families as an alternative to incarceration or institutionalization; and

(B) to ensure that juveniles follow the terms of their probation;

(4) counseling, training, and mentoring programs, which may be in support of academic tutoring, vocational and tech-

nical training, and drug and violence prevention counseling, that are designed to link at-risk juveniles, juvenile offenders, or juveniles who have a parent or legal guardian who is or was incarcerated in a Federal, State, or local correctional facility or who is otherwise under the jurisdiction of a Federal, State, or local criminal justice system, particularly juveniles residing in low-income and high-crime areas and juveniles experiencing educational failure, with responsible individuals (such as law enforcement officers, Department of Defense personnel, individuals working with local businesses, and individuals working with community-based and faith-based organizations and agencies) who are properly screened and trained;

(5) community-based projects and services (including literacy and social service programs) which work with juvenile offenders and juveniles who are at risk of becoming juvenile offenders, including those from families with limited English-speaking proficiency, their parents, their siblings, and other family members during and after incarceration of the juvenile offenders, in order to strengthen families, to allow juvenile offenders to be retained in their homes, and to prevent the involvement of other juvenile family members in delinquent activities;

(6) projects designed to provide for the treatment (including mental health services) of juveniles for dependence on or abuse of alcohol, drugs, or other harmful substances;

(7) projects which leverage funds to provide scholarships for postsecondary education and training for low-income juveniles who reside in neighborhoods with high rates of poverty, violence, and drug-related crimes;

(8) projects which provide for an initial intake screening of each juvenile taken into custody—

(A) to determine the likelihood that such juvenile will commit a subsequent offense; and

(B) to provide appropriate interventions (including mental health services) to prevent such juvenile from committing subsequent offenses;

(9) projects (including school- or community-based projects) that are designed to prevent, and reduce the rate of, the participation of juveniles in gangs that commit crimes (particularly violent crimes), that unlawfully use firearms and other weapons, or that unlawfully traffic in drugs and that involve, to the extent practicable, families and other community members (including law enforcement personnel and members of the business community) in the activities conducted under such projects;

(10) comprehensive juvenile justice and delinquency prevention projects that meet the needs of juveniles through the collaboration of the many local service systems juveniles encounter, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies (including collaboration on appropriate prenatal care for pregnant juvenile offenders), private nonprofit agencies, and public recreation agencies offering services to juveniles;

(11) to develop, implement, and support, in conjunction with public and private agencies, organizations, and businesses, projects for the employment of juveniles and referral to job training programs (including referral to Federal job training programs);

(12) delinquency prevention activities which involve youth clubs, sports, recreation and parks, peer counseling and teaching, the arts, leadership development, community service, volunteer service, before- and after-school programs, violence prevention activities, mediation skills training, camping, environmental education, ethnic or cultural enrichment, tutoring, and academic enrichment;

(13) to establish policies and systems to incorporate relevant child protective services records into juvenile justice records for purposes of establishing treatment plans for juvenile offenders;

(14) programs that encourage social competencies, problem-solving skills, and communication skills, youth leadership, and civic involvement;

(15) programs that focus on the needs of young girls at-risk of delinquency or status offenses;

(16) projects which provide for—

(A) an assessment by a qualified mental health professional of incarcerated juveniles who are suspected to be in need of mental health services;

(B) the development of an individualized treatment plan for those incarcerated juveniles determined to be in need of such services;

(C) the inclusion of a discharge plan for incarcerated juveniles receiving mental health services that addresses aftercare services; and

(D) all juveniles receiving psychotropic medications to be under the care of a licensed mental health professional;

(17) after-school programs that provide at-risk juveniles and juveniles in the juvenile justice system with a range of age-appropriate activities, including tutoring, mentoring, and other educational and enrichment activities;

(18) programs related to the establishment and maintenance of a school violence hotline, based on a public-private partnership, that students and parents can use to report suspicious, violent, or threatening behavior to local school and law enforcement authorities;

(19) programs (excluding programs to purchase guns from juveniles) designed to reduce the unlawful acquisition and illegal use of guns by juveniles, including partnerships between law enforcement agencies, health professionals, school officials, firearms manufacturers, consumer groups, faith-based groups and community organizations;

(20) programs designed to prevent animal cruelty by juveniles and to counsel juveniles who commit animal cruelty offenses, including partnerships among law enforcement agencies, animal control officers, social services agencies, and school officials;

(21) programs that provide suicide prevention services for incarcerated juveniles and for juveniles leaving the incarceration system;

(22) programs to establish partnerships between State educational agencies and local educational agencies for the design and implementation of character education and training programs that reflect the values of parents, teachers, and local communities, and incorporate elements of good character, including honesty, citizenship, courage, justice, respect, personal responsibility, and trustworthiness;

(23) programs that foster strong character development in at-risk juveniles and juveniles in the juvenile justice system;

(24) local programs that provide for immediate psychological evaluation and follow-up treatment (including evaluation and treatment during a mandatory holding period for not less than 24 hours) for juveniles who bring a gun on school grounds without permission from appropriate school authorities; and

(25) other activities that are likely to prevent juvenile delinquency.

(b) GRANTS TO ELIGIBLE INDIAN TRIBES.—The Administrator may make grants to eligible Indian tribes from funds allocated under section 242(b), to carry out projects of the kinds described in subsection (a).

(42 U.S.C. 5651)

SEC. 242. ALLOCATION.

(a) ALLOCATION AMONG ELIGIBLE STATES.—Subject to subsection (b), funds appropriated to carry out this part shall be allocated among eligible States proportionately based on the population that is less than 18 years of age in the eligible States.

(b) ALLOCATION AMONG INDIAN TRIBES COLLECTIVELY.—Before allocating funds under subsection (a) among eligible States, the Administrator shall allocate among eligible Indian tribes as determined under section 246(a), an aggregate amount equal to the amount such tribes would be allocated under subsection (a), and without regard to this subsection, if such tribes were treated collectively as an eligible State.

(42 U.S.C. 5652)

SEC. 243. ELIGIBILITY OF STATES.

(a) APPLICATION.—To be eligible to receive a grant under section 241, a State shall submit to the Administrator an application that contains the following:

(1) An assurance that the State will use—

(A) not more than 5 percent of such grant, in the aggregate, for—

(i) the costs incurred by the State to carry out this part; and

(ii) to evaluate, and provide technical assistance relating to, projects and activities carried out with funds provided under this part; and

(B) the remainder of such grant to make grants under section 244.

(2) An assurance that, and a detailed description of how, such grant will supplement, and not supplant State and local efforts to prevent juvenile delinquency.

(3) An assurance that such application was prepared after consultation with and participation by the State advisory group, community-based organizations, and organizations in the local juvenile justice system, that carry out programs, projects, or activities to prevent juvenile delinquency.

(4) An assurance that the State advisory group will be afforded the opportunity to review and comment on all grant applications submitted to the State agency.

(5) An assurance that each eligible entity described in section 244 that receives an initial grant under section 244 to carry out a project or activity shall also receive an assurance from the State that such entity will receive from the State, for the subsequent fiscal year to carry out such project or activity, a grant under such section in an amount that is proportional, based on such initial grant and on the amount of the grant received under section 241 by the State for such subsequent fiscal year, but that does not exceed the amount specified for such subsequent fiscal year in such application as approved by the State.

(6) Such other information and assurances as the Administrator may reasonably require by rule.

(b) APPROVAL OF APPLICATIONS.—

(1) APPROVAL REQUIRED.—Subject to paragraph (2), the Administrator shall approve an application, and amendments to such application submitted in subsequent fiscal years, that satisfy the requirements of subsection (a).

(2) LIMITATION.—The Administrator may not approve such application (including amendments to such application) for a fiscal year unless—

(A)(i) the State submitted a plan under section 223 for such fiscal year; and

(ii) such plan is approved by the Administrator for such fiscal year; or

(B) the Administrator waives the application of subparagraph (A) to such State for such fiscal year, after finding good cause for such a waiver.

(42 U.S.C. 5653)

SEC. 244. GRANTS FOR LOCAL PROJECTS.

(a) GRANTS BY STATES.—Using a grant received under section 241, a State may make grants to eligible entities whose applications are received by the State, and reviewed by the State advisory group, to carry out projects and activities described in section 241.

(b) SPECIAL CONSIDERATION.—For purposes of making grants under subsection (a), the State shall give special consideration to eligible entities that—

(1) propose to carry out such projects in geographical areas in which there is—

(A) a disproportionately high level of serious crime committed by juveniles; or

(B) a recent rapid increase in the number of nonstatus offenses committed by juveniles;

(2)(A) agreed to carry out such projects or activities that are multidisciplinary and involve more than 2 private nonprofit agencies, organizations, and institutions that have experience dealing with juveniles; or

(B) represent communities that have a comprehensive plan designed to identify at-risk juveniles and to prevent or reduce the rate of juvenile delinquency, and that involve other entities operated by individuals who have a demonstrated history of involvement in activities designed to prevent juvenile delinquency; and

(3) the amount of resources (in cash or in kind) such entities will provide to carry out such projects and activities.

(42 U.S.C. 5654)

SEC. 245. ELIGIBILITY OF ENTITIES.

(a) ELIGIBILITY.—Except as provided in subsection (b), to be eligible to receive a grant under section 244, a unit of general purpose local government, acting jointly with not fewer than 2 private nonprofit agencies, organizations, and institutions that have experience dealing with juveniles, shall submit to the State an application that contains the following:

(1) An assurance that such applicant will use such grant, and each such grant received for the subsequent fiscal year, to carry out throughout a 2-year period a project or activity described in reasonable detail, and of a kind described in one or more of paragraphs (1) through (25) of section 241(a) as specified in, such application.

(2) A statement of the particular goals such project or activity is designed to achieve, and the methods such entity will use to achieve, and assess the achievement of, each of such goals.

(3) A statement identifying the research (if any) such entity relied on in preparing such application.

(b) LIMITATION.—If an eligible entity that receives a grant under section 244 to carry out a project or activity for a 2-year period, and receives technical assistance from the State or the Administrator after requesting such technical assistance (if any), fails to demonstrate, before the expiration of such 2-year period, that such project or such activity has achieved substantial success in achieving the goals specified in the application submitted by such entity to receive such grants, then such entity shall not be eligible to receive any subsequent grant under such section to continue to carry out such project or activity.

(42 U.S.C. 5655)

SEC. 246. GRANTS TO INDIAN TRIBES.

(a) ELIGIBILITY.—

(1) APPLICATION.—To be eligible to receive a grant under section 241(b), an Indian tribe shall submit to the Administrator an application in accordance with this section, in such form and containing such information as the Administrator may require by rule.

(2) PLANS.—Such application shall include a plan for conducting programs, projects, and activities described in section 241(a), which plan shall—

(A) provide evidence that the applicant Indian tribe performs law enforcement functions (as determined by the Secretary of the Interior);

(B) identify the juvenile justice and delinquency problems and juvenile delinquency prevention needs to be addressed by activities conducted with funds provided by the grant for which such application is submitted, by the Indian tribe in the geographical area under the jurisdiction of the Indian tribe;

(C) provide for fiscal control and accounting procedures that—

(i) are necessary to ensure the prudent use, proper disbursement, and accounting of grants received by applicants under this section; and

(ii) are consistent with the requirement specified in subparagraph (B); and

(D) comply with the requirements specified in section 223(a) (excluding any requirement relating to consultation with a State advisory group) and with the requirements specified in section 222(c); and

(E) contain such other information, and be subject to such additional requirements, as the Administrator may reasonably require by rule to ensure the effectiveness of the projects for which grants are made under section 241(b).

(b) FACTORS FOR CONSIDERATION.—For the purpose of selecting eligible applicants to receive grants under section 241(b), the Administrator shall consider—

(1) the resources that are available to each applicant Indian tribe that will assist, and be coordinated with, the overall juvenile justice system of the Indian tribe; and

(2) with respect to each such applicant—

(A) the juvenile population; and

(B) the population and the entities that will be served by projects proposed to be carried out with the grant for which the application is submitted.

(c) GRANT PROCESS.—

(1) SELECTION OF GRANT RECIPIENTS.—

(A) SELECTION REQUIREMENTS.—Except as provided in paragraph (2), the Administrator shall—

(i) make grants under this section on a competitive basis; and

(ii) specify in writing to each applicant selected to receive a grant under this section, the terms and conditions on which such grant is made to such applicant.

(B) PERIOD OF GRANT.—A grant made under this section shall be available for expenditure during a 2–year period.

(2) EXCEPTION.—If—

(A) in the 2-year period for which a grant made under this section shall be expended, the recipient of such grant applies to receive a subsequent grant under this section; and

(B) the Administrator determines that such recipient performed during the year preceding the 2–year period for

which such recipient applies to receive such subsequent grant satisfactorily and in accordance with the terms and conditions applicable to the grant received;

then the Administrator may waive the application of the competition-based requirement specified in paragraph (1)(A)(i) and may allow the applicant to incorporate by reference in the current application the text of the plan contained in the recipient's most recent application previously approved under this section.

(3) AUTHORITY TO MODIFY APPLICATION PROCESS FOR SUBSEQUENT GRANTS.—The Administrator may modify by rule the operation of subsection (a) with respect to the submission and contents of applications for subsequent grants described in paragraph (2).

(d) REPORTING REQUIREMENT.—Each Indian tribe that receives a grant under this section shall be subject to the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

(e) MATCHING REQUIREMENT.—(1) Funds appropriated for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of any program or project with a matching requirement funded under this section.

(2) Paragraph (1) shall not apply with respect to funds appropriated before the date of the enactment of the Juvenile Justice and Delinquency Prevention Act of 2002.

(3) If the Administrator determines that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of any program or activity to be funded under the grant, the Administrator may increase the Federal share of the cost thereof to the extent the Administrator deems necessary.

(42 U.S.C. 5656)

PART D—RESEARCH; EVALUATION; TECHNICAL ASSISTANCE; TRAINING

SEC. 251. RESEARCH AND EVALUATION; STATISTICAL ANALYSES; INFORMATION DISSEMINATION.

(a) RESEARCH AND EVALUATION.—(1) The Administrator may—

(A) plan and identify the purposes and goals of all agreements carried out with funds provided under this subsection; and

(B) conduct research or evaluation in juvenile justice matters, for the purpose of providing research and evaluation relating to—

(i) the prevention, reduction, and control of juvenile delinquency and serious crime committed by juveniles;

(ii) the link between juvenile delinquency and the incarceration of members of the families of juveniles;

(iii) successful efforts to prevent first-time minor offenders from committing subsequent involvement in serious crime;

(iv) successful efforts to prevent recidivism;
(v) the juvenile justice system;
(vi) juvenile violence;
(vii) appropriate mental health services for juveniles and youth at risk of participating in delinquent activities;
(viii) reducing the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups;
(ix) evaluating services, treatment, and aftercare placement of juveniles who were under the care of the State child protection system before their placement in the juvenile justice system;
(x) determining—
(I) the frequency, seriousness, and incidence of drug use by youth in schools and communities in the States using, if appropriate, data submitted by the States pursuant to this subparagraph and subsection (b); and
(II) the frequency, degree of harm, and morbidity of violent incidents, particularly firearm-related injuries and fatalities, by youth in schools and communities in the States, including information with respect to—
(aa) the relationship between victims and perpetrators;
(bb) demographic characteristics of victims and perpetrators; and
(cc) the type of weapons used in incidents, as classified in the Uniform Crime Reports of the Federal Bureau of Investigation; and
(xi) other purposes consistent with the purposes of this title and title I.

(2) The Administrator shall ensure that an equitable amount of funds available to carry out paragraph (1)(B) is used for research and evaluation relating to the prevention of juvenile delinquency.

(3) Nothing in this subsection shall be construed to permit the development of a national database of personally identifiable information on individuals involved in studies, or in data-collection efforts, carried out under paragraph (1)(B)(x).

(4) Not later than 1 year after the date of enactment of this paragraph,the Administrator shall conduct a study with respect to juveniles who, prior to placement in the juvenile justice system, were under the care or custody of the State child welfare system, and to juveniles who are unable to return to their family after completing their disposition in the juvenile justice system and who remain wards of the State. Such study shall include—

(A) the number of juveniles in each category;
(B) the extent to which State juvenile justice systems and child welfare systems are coordinating services and treatment for such juveniles;
(C) the Federal and local sources of funds used for placements and post-placement services;
(D) barriers faced by State in providing services to these juveniles;

(E) the types of post-placement services used;

(F) the frequency of case plans and case plan reviews; and

(G) the extent to which case plans identify and address permanency and placement barriers and treatment plans.

(b) STATISTICAL ANALYSES.—The Administrator may—

(1) plan and identify the purposes and goals of all agreements carried out with funds provided under this subsection; and

(2) undertake statistical work in juvenile justice matters, for the purpose of providing for the collection, analysis, and dissemination of statistical data and information relating to juvenile delinquency and serious crimes committed by juveniles, to the juvenile justice system, to juvenile violence, and to other purposes consistent with the purposes of this title and title I.

(c) GRANT AUTHORITY AND COMPETITIVE SELECTION PROCESS.—The Administrator may make grants and enter into contracts with public or private agencies, organizations, or individuals and shall use a competitive process, established by rule by the Administrator, to carry out subsections (a) and (b).

(d) IMPLEMENTATION OF AGREEMENTS.—A Federal agency that makes an agreement under subsections (a)(1)(B) and (b)(2) with the Administrator may carry out such agreement directly or by making grants to or contracts with public and private agencies, institutions, and organizations.

(e) INFORMATION DISSEMINATION.—The Administrator may—

(1) review reports and data relating to the juvenile justice system in the United States and in foreign nations (as appropriate), collect data and information from studies and research into all aspects of juvenile delinquency (including the causes, prevention, and treatment of juvenile delinquency) and serious crimes committed by juveniles;

(2) establish and operate, directly or by contract, a clearinghouse and information center for the preparation, publication, and dissemination of information relating to juvenile delinquency, including State and local prevention and treatment programs, plans, resources, and training and technical assistance programs; and

(3) make grants and contracts with public and private agencies, institutions, and organizations, for the purpose of disseminating information to representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, the courts, corrections, schools, and related services, in the establishment, implementation, and operation of projects and activities for which financial assistance is provided under this title.

(42 U.S.C. 5661)

SEC. 252. TRAINING AND TECHNICAL ASSISTANCE.

(a) TRAINING.—The Administrator may—

(1) develop and carry out projects for the purpose of training representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, to carry out the purposes specified in section 102; and

(2) make grants to and contracts with public and private agencies, institutions, and organizations for the purpose of training representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, to carry out the purposes specified in section 102.

(b) TECHNICAL ASSISTANCE.—The Administrator may—

(1) develop and implement projects for the purpose of providing technical assistance to representatives and personnel of public and private agencies and organizations, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, in the establishment, implementation, and operation of programs, projects, and activities for which financial assistance is provided under this title; and

(2) make grants to and contracts with public and private agencies, institutions, and organizations, for the purpose of providing technical assistance to representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, in the establishment, implementation, and operation of programs, projects, and activities for which financial assistance is provided under this title.

(c) TRAINING AND TECHNICAL ASSISTANCE TO MENTAL HEALTH PROFESSIONALS AND LAW ENFORCEMENT PERSONNEL.—The Administrator shall provide training and technical assistance to mental health professionals and law enforcement personnel (including public defenders, police officers, probation officers, judges, parole officials, and correctional officers) to address or to promote the development, testing, or demonstration of promising or innovative models (including model juvenile and family courts), programs, or delivery systems that address the needs of juveniles who are alleged or adjudicated delinquent and who, as a result of such status, are placed in secure detention or confinement or in nonsecure residential placements.

(42 U.S.C. 5662)

PART E—DEVELOPING, TESTING, AND DEMONSTRATING PROMISING NEW INITIATIVES AND PROGRAMS

SEC. 261. GRANTS AND PROJECTS.

(a) AUTHORITY TO MAKE GRANTS.—The Administrator may make grants to and contracts with States, units of general local government, Indian tribal governments, public and private agencies, organizations, and individuals, or combinations thereof, to carry out projects for the development, testing, and demonstration of promising initiatives and programs for the prevention, control, or reduction of juvenile delinquency. The Administrator shall ensure that, to the extent reasonable and practicable, such grants are made to achieve an equitable geographical distribution of such projects throughout the United States.

(b) USE OF GRANTS.—A grant made under subsection (a) may be used to pay all or part of the cost of the project for which such grant is made.

(42 U.S.C. 5665)

SEC. 262. GRANTS FOR TECHNICAL ASSISTANCE.

The Administrator may make grants to and contracts with public and private agencies, organizations, and individuals to provide technical assistance to States, units of general local government, Indian tribal governments, local private entities or agencies, or any combination thereof, to carry out the projects for which grants are made under section 261.

(42 U.S.C. 5666)

SEC. 263. ELIGIBILITY.

To be eligible to receive a grant made under this part, a public or private agency, Indian tribal government, organization, institution, individual, or combination thereof shall submit an application to the Administrator at such time, in such form, and containing such information as the Administrator may reasonably require by rule.

(42 U.S.C. 5667)

SEC. 264. REPORTS.

Recipients of grants made under this part shall submit to the Administrator such reports as may be reasonably requested by the Administrator to describe progress achieved in carrying out the projects for which such grants are made.

(42 U.S.C. 5668)

PART F—GENERAL AND ADMINISTRATIVE PROVISIONS

AUTHORIZATION OF APPROPRIATIONS

SEC. 299. (a) AUTHORIZATION OF APPROPRIATIONS FOR TITLE II (EXCLUDING PARTS C AND E).—(1) There are authorized to be appropriated to carry out this title such sums as may be appropriate for fiscal years 2003, 2004, 2005, 2006, and 2007.

(2) Of such sums as are appropriated for a fiscal year to carry out this title (other than parts C and E)—

(A) not more than 5 percent shall be available to carry out part A;

(B) not less than 80 percent shall be available to carry out part B; and

(C) not more than 15 percent shall be available to carry out part D.

(b) AUTHORIZATION OF APPROPRIATIONS FOR PART C.—There are authorized to be appropriated to carry out part C such sums as may be necessary for fiscal years 2003, 2004, 2005, 2006, and 2007.

(c) AUTHORIZATION OF APPROPRIATIONS FOR PART E.—There are authorized to be appropriated to carry out part E, and authorized to remain available until expended, such sums as may be necessary for fiscal years 2003, 2004, 2005, 2006, and 2007.

(d) No funds appropriated to carry out the purposes of this title may be used for any bio-medical or behavior control experimentation on individuals or any research involving such experimen-

tation. For the purpose of this subsection, the term "behavior control" refers to experimentation or research employing methods which involve a substantial risk of physical or psychological harm to the individual subject and which are intended to modify or alter criminal and other anti-social [1] behavior, including aversive conditioning therapy, drug therapy or chemotherapy (except as part of routine clinical care), physical therapy of mental disorders, electroconvulsive therapy, or physical punishment. The term does not apply to a limited class of programs generally recognized as involving no such risk, including methadone maintenance and certain alcohol treatment programs, psychological counseling, parent training, behavior contracting, survival skills training, restitution, or community service, if safeguards are established for the informed consent of subjects (including parents or guardians of minors).

(42 U.S.C. 5671)

ADMINISTRATIVE AUTHORITY

SEC. 299A. (a) The Office shall be administered by the Administrator under the general authority of the Attorney General.

(b) Sections 809(c), 811(a), 811(b), 811(c), 812(a), 812(b), and 812(d) of the Omnibus Crime Control and Safe Streets Act of 1968,[2] as so designated by the operation of the amendments made by the Justice Assistance Act of 1984,[3] shall apply with respect to the administration of and compliance with this Act, except that for purposes of this Act—

(1) any reference to the Office of Justice Programs in such sections shall be deemed to be a reference to the Assistant Attorney General who heads the Office of Justice Programs; and

(2) the term "this title" as it appears in such sections shall be deemed to be a reference to this Act.

(c) Sections 801(a), 801(c), and 806 of the Omnibus Crime Control and Safe Streets Act of 1968,[4] as so designated by the operation of the amendments made by the Justice Assistance Act of 1984, [3] shall apply with respect to the administration of and compliance with this Act, except that for purposes of this Act—

(1) any reference to the Attorney General, the Assistant Attorney General who heads the Office of Justice Programs, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, or the Director of the Bureau of Justice Assistance shall be deemed to be a reference to the Administrator;

(2) any reference to the Office of Justice Programs, the Bureau of Justice Assistance, the National Institute of Justice, or the Bureau of Justice Statistics shall be deemed to be a reference to the Office of Juvenile Justice and Delinquency Prevention; and

(3) the term "this title" as it appears in such sections shall be deemed to be a reference to this Act.

(d) The Administrator is authorized, after appropriate consultation with representatives of States and units of local govern-

[1] Should strike "anti-social" and insert "antisocial".
[2] (42 U.S.C. 3789d et seq.).
[3] Division II of chapter VI of title II of Public Law 98–473 (98 Stat. 2107), approved October 12, 1984.
[4] (42 U.S.C. 3782 et seq.).

ment, to establish such rules, regulations, and procedures as are necessary for the exercise of the functions of the Office and only to the extent necessary to ensure that there is compliance with the specific requirements of this title or to respond to requests for clarification and guidance relating to such compliance.

(e) If a State requires by law compliance with the requirements described in paragraphs (11), (12), and (13) of section 223(a), then for the period such law is in effect in such State such State shall be rebuttably presumed to satisfy such requirements.

(42 U.S.C. 5672)

WITHHOLDING

SEC. 299B. Whenever the Administrator, after giving reasonable notice and opportunity for hearing to a recipient of financial assistance under this title, finds that—

(1) the program or activity for which the grant or contract involved was made has been so changed that it no longer complies with this title; or

(2) in the operation of such program or activity there is failure to comply substantially with any provision of this title;

the Administrator shall initiate such proceedings as are appropriate.

(42 U.S.C. 5673)

USE OF FUNDS

SEC. 299C. (a) Funds paid pursuant to this title to any public or private agency, organization, or institution, or to any individual (either directly or through a State planning agency) may be used for—

(1) planning, developing, or operating the program designed to carry out this title; and

(2) not more than 50 per centum of the cost of the construction of any innovative community-based facility for fewer than 20 persons which, in the judgment of the Administrator, is necessary to carry out this title.

(b) Except as provided in subsection (a), no funds paid to any public or private agency, or institution or to any individual under this title (either directly or through a State agency or local agency) may be used for construction.

(c) No funds may be paid under this title to a residential program (excluding a program in a private residence) unless—

(1) there is in effect in the State in which such placement or care is provided, a requirement that the provider of such placement or such care may be licensed only after satisfying, at a minimum, explicit standards of discipline that prohibit neglect, and physical and mental abuse, as defined by State law;

(2) such provider is licensed as described in paragraph (1) by the State in which such placement or care is provided; and

(3) in a case involving a provider located in a State that is different from the State where the order for placement originates, the chief administrative officer of the public agency or the officer of the court placing the juvenile certifies that such provider—

(A) satisfies the originating State's explicit licensing standards of discipline that prohibit neglect, physical and mental abuse, and standards for education and health care as defined by that State's law; and

(B) otherwise complies with the Interstate Compact on the Placement of Children as entered into by such other State.

(42 U.S.C. 5674)

PAYMENTS

SEC. 299D. (a) Payments under this title, pursuant to a grant or contract, may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions as the Administrator may determine.

(b) Except as provided in the second sentence of section 222(c), financial assistance extended under this title shall be 100 per centum of the approved costs of the program or activity involved.

(c)(1) In the case of a grant under this title to an Indian tribe, if the Administrator determines that the tribe does not have sufficient funds available to meet the local share of the cost of any program or activity to be funded under the grant, the Administrator may increase the Federal share of the cost thereof to the extent the Administrator deems necessary.

(2) If a State does not have an adequate forum to enforce grant provisions imposing any liability on Indian tribes, the Administrator may waive State liability attributable to the liability of such tribes and may pursue such legal remedies as are necessary.

(42 U.S.C. 5675)

CONFIDENTIALITY OF PROGRAM RECORDS

SEC. 299E. Except as authorized by law, program records containing the identity of individual juveniles gathered for purposes pursuant to this title may not be disclosed without the consent of the service recipient or legally authorized representative, or as may be necessary to carry out this title. Under no circumstances may program reports or findings available for public dissemination contain the actual names of individual service recipients.

(42 U.S.C. 5676)

SEC. 299F. LIMITATIONS ON USE OF FUNDS.

None of the funds made available to carry out this title may be used to advocate for, or support, the unsecured release of juveniles who are charged with a violent crime.

(42 U.S.C. 5677)

SEC. 299G. RULES OF CONSTRUCTION.

Nothing in this title or title I shall be construed—

(1) to prevent financial assistance from being awarded through grants under this title to any otherwise eligible organization; or

(2) to modify or affect any Federal or State law relating to collective bargaining rights of employees.

(42 U.S.C. 5678)

SEC. 299H. LEASING SURPLUS FEDERAL PROPERTY.

The Administrator may receive surplus Federal property (including facilities) and may lease such property to States and units of general local government for use in or as facilities for juvenile offenders, or for use in or as facilities for delinquency prevention and treatment activities.

(42 U.S.C. 5679)

SEC. 299I. ISSUANCE OF RULES.

The Administrator shall issue rules to carry out this title, including rules that establish procedures and methods for making grants and contracts, and distributing funds available, to carry out this title.

(42 U.S.C. 5680)

SEC. 299J. CONTENT OF MATERIALS.

Materials produced, procured, or distributed both using funds appropriated to carry out this Act and for the purpose of preventing hate crimes that result in acts of physical violence, shall not recommend or require any action that abridges or infringes upon the constitutionally protected rights of free speech, religion, or equal protection of juveniles or of their parents or legal guardians.

(42 U.S.C. 5681)

TITLE III—RUNAWAY AND HOMELESS YOUTH

SHORT TITLE

SEC. 301. This title may be cited as the "Runaway and Homeless Youth Act".

(42 U.S.C. 5701 note)

FINDINGS

SEC. 302. The Congress hereby finds that—

(1) juveniles who have become homeless or who leave and remain away from home without parental permission, are at risk of developing serious health and other problems because they lack sufficient resources to obtain care and may live on the street for extended periods thereby endangering themselves and creating a substantial law enforcement problem for communities in which they congregate;

(2) the exact nature of the problem is not well defined because national statistics on the size and profile of the runaway youth population are not tabulated;

(3) many such young people, because of their age and situation, are urgently in need of temporary shelter and counseling services;

(4) the problem of locating, detaining, and returning runaway children should not be the responsibility of already overburdened police departments and juvenile justice authorities;

(5) in view of the interstate nature of the problem, it is the responsibility of the Federal Government to develop an accurate national reporting system to report the problem, and to assist in the development of an effective system of care (including preventive services, emergency shelter services, and ex-

tended residential shelter) outside the welfare system and the law enforcement system;

(6) runaway and homeless youth have a disproportionate share of health, behavioral, and emotional problems compared to the general population of youth, but have less access to health care and other appropriate services and therefore may need access to longer periods of residential care, more intensive aftercare service, and other assistance;

(7) to make a successful transition to adulthood, runaway youth, homeless youth, and other street youth need opportunities to complete high school or earn a general equivalency degree, learn job skills, and obtain employment;

(8) services for runaway and homeless youth are needed in urban, suburban, and rural areas;

(9) early intervention services (such as home-based services) are needed to prevent runaway and homeless youth from becoming involved in the juvenile justice system and other law enforcement systems; and

(10) street-based services that target runaway and homeless youth where they congregate are needed to reach youth who require assistance but who would not otherwise avail themselves of such assistance or services without street-based outreach.

(42 U.S.C. 5701)

RULES

SEC. 303. The Secretary of Health and Human Services (hereinafter in this title referred to as the "Secretary") may issue such rules as the Secretary considers necessary or appropriate to carry out the purposes of this title.

(42 U.S.C. 5702)

PART A—RUNAWAY AND HOMELESS YOUTH GRANT PROGRAM

AUTHORITY TO MAKE GRANTS

SEC. 311. (a) GRANTS FOR CENTERS AND SERVICES.—

(1) IN GENERAL.—The Secretary shall make grants to public and nonprofit private entities (and combinations of such entities) to establish and operate (including renovation) local centers to provide services for runaway and homeless youth and for the families of such youth.

(2) SERVICES PROVIDED.—Services provided under paragraph (1)—

(A) shall be provided as an alternative to involving runaway and homeless youth in the law enforcement, child welfare, mental health, and juvenile justice systems;

(B) shall include—

(i) safe and appropriate shelter; and

(ii) individual, family, and group counseling, as appropriate; and

(C) may include—

(i) street-based services;

(ii) home-based services for families with youth at risk of separation from the family; and

(iii) drug abuse education and prevention services.

(b)(1) Subject to paragraph (2) and in accordance with regulations promulgated under this title, funds for grants under subsection (a) shall be allotted annually with respect to the States on the basis of their relative population of individuals who are less than 18 years of age.

(2) Subject to paragraph (3), the amount allotted under paragraph (1) with respect to each State for a fiscal year shall be not less than $100,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be not less than $45,000 each.

(3) If, as a result of paragraph (2), the amount allotted under paragraph (1) with respect to a State for a fiscal year would be less than the aggregate amount of grants made under this part to recipients in such State for fiscal year 1992, then the amounts allotted to satisfy the requirements of such paragraph shall be reduced pro rata to the extent necessary to allot under paragraph (1) with respect to such State for the fiscal year an amount equal to the aggregate amount of grants made under this part to recipients in such State for fiscal year 1992.

(4) In selecting among applicants for grants under subsection (a), the Secretary shall give priority to private entities that have experience in providing the services described in such subsection.

(42 U.S.C. 5711)

ELIGIBILITY

SEC. 312. (a) To be eligible for assistance under section 311(a), an applicant shall propose to establish, strengthen, or fund an existing or proposed runaway and homeless youth center, a locally controlled project (including a host family home) that provides temporary shelter, and counseling services to juveniles who have left home without permission of their parents or guardians or to other homeless juveniles.

(b) In order to qualify for assistance under section 311(a), an applicant shall submit a plan to the Secretary including assurances that the applicant—

(1) shall operate a runaway and homeless youth center located in an area which is demonstrably frequented by or easily reachable by runaway and homeless youth;

(2) shall use such assistance to establish, to strengthen, or to fund a runaway and homeless youth center, or a locally controlled facility providing temporary shelter, that has—

(A) a maximum capacity of not more than 20 youth; and

(B) a ratio of staff to youth that is sufficient to ensure adequate supervision and treatment;

(3) shall develop adequate plans for contacting the parents or other relatives of the youth and ensuring the safe return of the youth according to the best interests of the youth, for contacting local government officials pursuant to informal arrangements established with such officials by the runaway and homeless youth center, and for providing for other appropriate alternative living arrangements;

(4) shall develop an adequate plan for ensuring—

(A) proper relations with law enforcement personnel, health and mental health care personnel, social service personnel, school system personnel, and welfare personnel;

(B) coordination with personnel of the schools to which runaway and homeless youth will return, to assist such youth to stay current with the curricula of those schools; and

(C) the return of runaway and homeless youth from correctional institutions;

(5) shall develop an adequate plan for providing counseling and aftercare services to such youth, for encouraging the involvement of their parents or legal guardians in counseling, and for ensuring, as possible, that aftercare services will be provided to those youth who are returned beyond the State in which the runaway and homeless youth center is located;

(6) shall develop an adequate plan for establishing or coordinating with outreach programs designed to attract persons (including, where applicable, persons who are members of a cultural minority and persons with limited ability to speak English) who are eligible to receive services for which a grant under subsection (a) may be expended;

(7) shall keep adequate statistical records profiling the youth and family members whom it serves (including youth who are not referred to out-of-home shelter services), except that records maintained on individual runaway and homeless youth shall not be disclosed without the consent of the individual youth and parent or legal guardian to anyone other than another agency compiling statistical records or a government agency involved in the disposition of criminal charges against an individual runaway and homeless youth, and reports or other documents based on such statistical records shall not disclose the identity of individual runaway and homeless youth;

(8) shall submit annual reports to the Secretary detailing how the center has been able to meet the goals of its plans and reporting the statistical summaries required by paragraph (7);

(9) shall demonstrate its ability to operate under accounting procedures and fiscal control devices as required by the Secretary;

(10) shall submit a budget estimate with respect to the plan submitted by such center under this subsection;

(11) shall supply such other information as the Secretary reasonably deems necessary; and

(12) shall submit to the Secretary an annual report that includes, with respect to the year for which the report is submitted—

(A) information regarding the activities carried out under this part;

(B) the achievements of the project under this part carried out by the applicant; and

(C) statistical summaries describing—

(i) the number and the characteristics of the runaway and homeless youth, and youth at risk of family separation, who participate in the project; and

(ii) the services provided to such youth by the project.

(c) APPLICANTS PROVIDING STREET-BASED SERVICES.—To be eligible to use assistance under section 311(a)(2)(C)(i) to provide street-based services, the applicant shall include in the plan required by subsection (b) assurances that in providing such services the applicant will—

(1) provide qualified supervision of staff, including on-street supervision by appropriately trained staff;

(2) provide backup personnel for on-street staff;

(3) provide initial and periodic training of staff who provide such services; and

(4) conduct outreach activities for runaway and homeless youth, and street youth.

(d) APPLICANTS PROVIDING HOME-BASED SERVICES.—To be eligible to use assistance under section 311(a) to provide home-based services described in section 311(a)(2)(C)(ii), an applicant shall include in the plan required by subsection (b) assurances that in providing such services the applicant will—

(1) provide counseling and information to youth and the families (including unrelated individuals in the family households) of such youth, including services relating to basic life skills, interpersonal skill building, educational advancement, job attainment skills, mental and physical health care, parenting skills, financial planning, and referral to sources of other needed services;

(2) provide directly, or through an arrangement made by the applicant, 24-hour service to respond to family crises (including immediate access to temporary shelter for runaway and homeless youth, and youth at risk of separation from the family);

(3) establish, in partnership with the families of runaway and homeless youth, and youth at risk of separation from the family, objectives and measures of success to be achieved as a result of receiving home-based services;

(4) provide initial and periodic training of staff who provide home-based services; and

(5) ensure that—

(A) caseloads will remain sufficiently low to allow for intensive (5 to 20 hours per week) involvement with each family receiving such services; and

(B) staff providing such services will receive qualified supervision.

(e) APPLICANTS PROVIDING DRUG ABUSE EDUCATION AND PREVENTION SERVICES.—To be eligible to use assistance under section 311(a)(2)(C)(iii) to provide drug abuse education and prevention services, an applicant shall include in the plan required by subsection (b)—

(1) a description of—

(A) the types of such services that the applicant proposes to provide;

(B) the objectives of such services; and

(C) the types of information and training to be provided to individuals providing such services to runaway and homeless youth; and

(2) an assurance that in providing such services the applicant shall conduct outreach activities for runaway and homeless youth.

(42 U.S.C. 5712)

SEC. 313. APPROVAL OF APPLICATIONS.

(a) IN GENERAL.—An application by a public or private entity for a grant under section 311(a) may be approved by the Secretary after taking into consideration, with respect to the State in which such entity proposes to provide services under this part—

(1) the geographical distribution in such State of the proposed services under this part for which all grant applicants request approval; and

(2) which areas of such State have the greatest need for such services.

(b) PRIORITY.—In selecting applications for grants under section 311(a), the Secretary shall give priority to—

(1) eligible applicants who have demonstrated experience in providing services to runaway and homeless youth; and

(2) eligible applicants that request grants of less than $200,000.

(42 U.S.C. 5713)

GRANTS TO PRIVATE ENTITIES; STAFFING

SEC. 314. Nothing in this title shall be construed to deny grants to private entities which are fully controlled by private boards or persons but which in other respects meet the requirements of this title and agree to be legally responsible for the operation of the runaway and homeless youth center and the programs, projects, and activities they carry out under this title. Nothing in this title shall give the Federal Government control over the staffing and personnel decisions of facilities receiving Federal funds under this title. [1]

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[1] Section 40155 of the Violent Crime Control and Law Enforcement Act of 1994 states the following:

SEC. 40155. EDUCATION AND PREVENTION GRANTS TO REDUCE SEXUAL ABUSE OF RUNAWAY, HOMELESS, AND STREET YOUTH.

Part A of the Runaway and Homeless Youth Act (42 U.S.C. 5711 et seq.) is amended—

(1) by redesignating sections 316 and 317 as sections 317 and 318, respectively; and

(2) by inserting after section 315 the following new section:

"GRANTS FOR PREVENTION OF SEXUAL ABUSE AND EXPLOITATION

"SEC. 316. (a) IN GENERAL.—The Secretary shall make grants under this section to private, nonprofit agencies for street-based outreach and education, including treatment, counseling, provision of information, and referral for runaway, homeless, and street youth who have been subjected to or are at risk of being subjected to sexual abuse.

"(b) PRIORITY.—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to agencies that have experience in providing services to runaway, homeless, and street youth.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) $7,000,000 for fiscal year 1996;

"(2) $8,000,000 for fiscal year 1997; and

"(3) $15,000,000 for fiscal year 1998.

"(d) DEFINITIONS.—For the purposes of this section—

"(1) the term 'street-based outreach and education' includes education and prevention efforts directed at offenses committed by offenders who are not known to the victim as well as offenders who are known to the victim; and

"(2) the term 'street youth' means a juvenile who spends a significant amount of time on the street or in other areas of exposure to encounters that may lead to sexual abuse.".

Continued

(42 U.S.C. 5714)

PART B—TRANSITIONAL LIVING GRANT PROGRAM

AUTHORITY FOR PROGRAM

SEC. 321. The Secretary is authorized to make grants and to provide technical assistance to public and nonprofit private entities to establish and operate transitional living youth projects for homeless youth.

(42 U.S.C. 5714–1)

ELIGIBILITY

SEC. 322. (a) To be eligible for assistance under this part, an applicant shall propose to establish, strengthen, or fund a transitional living youth project for homeless youth and shall submit to the Secretary a plan in which such applicant agrees, as part of such project—

(1) to provide, directly or indirectly, shelter (such as group homes, host family homes, and supervised apartments) and services (including information and counseling services in basic life skills which shall include money management, budgeting, consumer education, and use of credit, interpersonal skill building, educational advancement, job attainment skills, and mental and physical health care) to homeless youth;

(2) to provide such shelter and such services to individual homeless youth throughout a continuous period not to exceed 540 days;

(3) to provide, directly or indirectly, on-site supervision at each shelter facility that is not a family home;

(4) that such shelter facility used to carry out such project shall have the capacity to accommodate not more than 20 individuals (excluding staff);

(5) to provide a number of staff sufficient to ensure that all homeless youth participating in such project receive adequate supervision and services;

(6) to provide a written transitional living plan to each youth based on an assessment of such youth's needs, designed to help the transition from supervised participation in such project to independent living or another appropriate living arrangement;

(7) to develop an adequate plan to ensure proper referral of homeless youth to social service, law enforcement, educational, vocational, training, welfare, legal service, and health care programs and to help integrate and coordinate such services for youths;

(8) to provide for the establishment of outreach programs designed to attract individuals who are eligible to participate in the project;

(9) to submit to the Secretary an annual report that includes information regarding the activities carried out with funds under this part, the achievements of the project under this part carried out by the applicant and statistical summaries describing the number and the characteristics of the

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The amendments were not executed because sections 315, 316, and 317 do not exist.

homeless youth who participate in such project, and the services provided to such youth by such project, in the year for which the report is submitted;

(10) to implement such accounting procedures and fiscal control devices as the Secretary may require;

(11) to submit to the Secretary an annual budget that estimates the itemized costs to be incurred in the year for which the applicant requests a grant under this part;

(12) to keep adequate statistical records profiling homeless youth which it serves and not to disclose the identity of individual homeless youth in reports or other documents based on such statistical records;

(13) not to disclose records maintained on individual homeless youth without the informed consent of the individual youth to anyone other than an agency compiling statistical records; and

(14) to provide to the Secretary such other information as the Secretary may reasonably require.

(b) In selecting eligible applicants to receive grants under this part, the Secretary shall give priority to entities that have experience in providing to homeless youth shelter and services of the types described in subsection (a)(1).

(42 U.S.C. 5714–2)

PART C—NATIONAL COMMUNICATIONS SYSTEM

AUTHORITY TO MAKE GRANTS

SEC. 331. The Secretary shall make grants for a national communication system to assist runaway and homeless youth in communicating with their families and with service providers. The Secretary shall give priority to grant applicants that have experience in providing telephone services to runaway and homeless youth.

(42 U.S.C. 5714–11)

PART D—COORDINATING, TRAINING, RESEARCH, AND OTHER ACTIVITIES

SEC. 341. COORDINATION.

With respect to matters relating to the health, education, employment, and housing of runaway and homeless youth, the Secretary—

(1) in conjunction with the Attorney General, shall coordinate the activities of agencies of the Department of Health and Human Services with activities under any other Federal juvenile crime control, prevention, and juvenile offender accountability program and with the activities of other Federal entities; and

(2) shall coordinate the activities of agencies of the Department of Health and Human Services with the activities of other Federal entities and with the activities of entities that are eligible to receive grants under this title.

(42 U.S.C. 5714–21)

GRANTS FOR TECHNICAL ASSISTANCE AND TRAINING

SEC. 342. The Secretary may make grants to statewide and regional nonprofit organizations (and combinations of such organizations) to provide technical assistance and training to public and private entities (and combinations of such entities) that are eligible to receive grants under this title, for the purpose of carrying out the programs, projects, or activities for which such grants are made.

(42 U.S.C. 5714–22)

AUTHORITY TO MAKE GRANTS FOR RESEARCH, EVALUATION, DEMONSTRATION, AND SERVICE PROJECTS

SEC. 343. (a) The Secretary may make grants to States, localities, and private entities (and combinations of such entities) to carry out research, evaluation, demonstration, and service projects designed to increase knowledge concerning, and to improve services for, runaway youth and homeless youth.

(b) In selecting among applications for grants under subsection (a), the Secretary shall give special consideration to proposed projects relating to—

(1) youth who repeatedly leave and remain away from their homes;

(2) transportation of runaway youth and homeless youth in connection with services authorized to be provided under this title;

(3) the special needs of runaway youth and homeless youth programs in rural areas;

(4) the special needs of programs that place runaway youth and homeless youth in host family homes;

(5) staff training in—

(A) the behavioral and emotional effects of sexual abuse and assault;

(B) responding to youth who are showing effects of sexual abuse and assault; and

(C) agency-wide strategies for working with runaway and homeless youth who have been sexually victimized;

(6) innovative methods of developing resources that enhance the establishment or operation of runaway and homeless youth centers;

(7) training for runaway youth and homeless youth, and staff training, related to preventing and obtaining treatment for infection by the human immunodeficiency virus (HIV);

(8) increasing access to health care (including mental health care) for runaway youth and homeless youth; and

(9) increasing access to education for runaway youth and homeless youth.

(c) In selecting among applicants for grants under subsection (a), the Secretary shall give priority to applicants who have experience working with runaway youth or homeless youth.

(42 U.S.C. 5714–23)

TEMPORARY DEMONSTRATION PROJECTS TO PROVIDE SERVICES TO YOUTH IN RURAL AREAS

SEC. 344. (a)(1) The Secretary may make grants on a competitive basis to States, localities, and private entities (and combinations of such entities) to provide services (including transportation) authorized to be provided under part A, to runaway and homeless youth in rural areas.

(2)(A) Each grant made under paragraph (1) may not exceed $100,000.

(B) In each fiscal year for which funds are appropriated to carry out this section, grants shall be made under paragraph (1) to eligible applicants to carry out projects in not fewer than 10 States.

(C) Not more than 2 grants may be made under paragraph (1) in each fiscal year to carry out projects in a particular State.

(3) Each eligible applicant that receives a grant for a fiscal year to carry out a project under this section shall have priority to receive a grant for the subsequent fiscal year to carry out a project under this section.

(b) To be eligible to receive a grant under subsection (a), an applicant shall—

(1) submit to the Secretary an application in such form and containing such information and assurances as the Secretary may require by rule; and

(2) propose to carry out such project in a geographical area that—

(A) has a population under 20,000;

(B) is located outside a Standard Metropolitan Statistical Area; and

(C) agree to provide to the Secretary an annual report identifying—

(i) the number of runaway and homeless youth who receive services under the project carried out by the applicant;

(ii) the types of services authorized under part A that were needed by, but not provided to, such youth in the geographical area served by the project;

(iii) the reasons the services identified under clause (ii) were not provided by the project; and

(iv) such other information as the Secretary may require.

(42 U.S.C. 5714–24)

SEC. 345. STUDY.

The Secretary shall conduct a study of a representative sample of runaways to determine the percent who leave home because of sexual abuse. The report on the study shall include—

(1) in the case of sexual abuse, the relationship of the assaulter to the runaway; and

(2) recommendations on how Federal laws may be changed to reduce sexual assaults on children.

The study shall be completed to enable the Secretary to make a report to the committees of Congress with jurisdiction over this Act, and to make such report available to the public, within one year of the date of the enactment of this section.

(42 U.S.C. 5714–25)

PART E—SEXUAL ABUSE PREVENTION PROGRAM

SEC. 351. AUTHORITY TO MAKE GRANTS.

(a) IN GENERAL.—The Secretary may make grants to nonprofit private agencies for the purpose of providing street-based services to runaway and homeless, and street youth, who have been subjected to, or are at risk of being subjected to, sexual abuse, prostitution, or sexual exploitation.

(b) PRIORITY.—In selecting applicants to receive grants under subsection (a), the Secretary shall give priority to nonprofit private agencies that have experience in providing services to runaway and homeless, and street youth.

(42 U.S.C. 5714–41)

PART F—GENERAL PROVISIONS

ASSISTANCE TO POTENTIAL GRANTEES

SEC. 380. The Secretary shall provide informational assistance to potential grantees interested in establishing runaway and homeless youth centers and transitional living youth projects.

(42 U.S.C. 5714a)

LEASE OF SURPLUS FEDERAL FACILITIES FOR USE AS RUNAWAY AND HOMELESS YOUTH CENTERS OR AS TRANSITIONAL LIVING YOUTH SHELTER FACILITIES

SEC. 381. (a) The Secretary may enter into cooperative lease arrangements with States, localities, and nonprofit private agencies to provide for the use of appropriate surplus Federal facilities transferred by the General Services Administration to the Department of Health and Human Services for use as runaway and homeless youth centers or as transitional living youth shelter facilities if the Secretary determines that—

(1) the applicant involved has suitable financial support necessary to operate a runaway and homeless youth center or transitional living youth project, as the case may be, under this title;

(2) the applicant is able to demonstrate the program expertise required to operate such center in compliance with this title, whether or not the applicant is receiving a grant under this part; and

(3) the applicant has consulted with and obtained the approval of the chief executive officer of the unit of general government in which the facility is located.

(b)(1) Each facility made available under this section shall be made available for a period of not less than 2 years, and no rent or fee shall be charged to the applicant in connection with use of such facility.

(2) Any structural modifications or additions to facilities made available under this section shall become the property of the United States. All such modifications or additions may be made

only after receiving the prior written consent of the Secretary or other appropriate officer of the Department of Health and Human Services.

(42 U.S.C. 5714b)

SEC. 382. REPORTS.

(a) IN GENERAL.—Not later than April 1, 2000, and biennially thereafter, the Secretary shall submit, to the Committee on Education and the Workforce of the House of Representatives and the Committee on the Judiciary of the Senate, a report on the status, activities, and accomplishments of entities that receive grants under parts A, B, C, D, and E, with particular attention to—

(1) in the case of centers funded under part A, the ability or effectiveness of such centers in—

(A) alleviating the problems of runaway and homeless youth;

(B) if applicable or appropriate, reuniting such youth with their families and encouraging the resolution of intrafamily problems through counseling and other services;

(C) strengthening family relationships and encouraging stable living conditions for such youth; and

(D) assisting such youth to decide upon a future course of action; and

(2) in the case of projects funded under part B—

(A) the number and characteristics of homeless youth served by such projects;

(B) the types of activities carried out by such projects;

(C) the effectiveness of such projects in alleviating the problems of homeless youth;

(D) the effectiveness of such projects in preparing homeless youth for self-sufficiency;

(E) the effectiveness of such projects in assisting homeless youth to decide upon future education, employment, and independent living;

(F) the ability of such projects to encourage the resolution of intrafamily problems through counseling and development of self-sufficient living skills; and

(G) activities and programs planned by such projects for the following fiscal year.

(b) CONTENTS OF REPORTS.—The Secretary shall include in each report submitted under subsection (a), summaries of—

(1) the evaluations performed by the Secretary under section 386; and

(2) descriptions of the qualifications of, and training provided to, individuals involved in carrying out such evaluations.

(42 U.S.C. 5715)

FEDERAL SHARE

SEC. 383. (a) The Federal share for the renovation of existing structures, the provision of counseling services, staff training, and the general costs of operations of such facility's budget for any fiscal year shall be 90 per centum. The non-Federal share may be in cash or in kind, fairly evaluated by the Secretary including plant, equipment, or services.

(b) Payments under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

(42 U.S.C. 5716)

RECORDS

SEC. 384. Records containing the identity of individual youth pursuant to this Act may under no circumstances be disclosed or transferred to any individual or to any public or private agency.

(42 U.S.C. 5731)

SEC. 385. CONSOLIDATED REVIEW OF APPLICATIONS.

With respect to funds available to carry out parts A, B, C, D, and E, nothing in this title shall be construed to prohibit the Secretary from—

(1) announcing, in a single announcement, the availability of funds for grants under 2 or more of such parts; and

(2) reviewing applications for grants under 2 or more of such parts in a single, consolidated application review process.

(42 U.S.C. 5731a)

SEC. 386. EVALUATION AND INFORMATION.

(a) IN GENERAL.—If a grantee receives grants for 3 consecutive fiscal years under part A, B, C, D, or E (in the alternative), then the Secretary shall evaluate such grantee on-site, not less frequently than once in the period of such 3 consecutive fiscal years, for purposes of—

(1) determining whether such grants are being used for the purposes for which such grants are made by the Secretary;

(2) collecting additional information for the report required by section 384; and

(3) providing such information and assistance to such grantee as will enable such grantee to improve the operation of the centers, projects, and activities for which such grants are made.

(b) COOPERATION.—Recipients of grants under this title shall cooperate with the Secretary's efforts to carry out evaluations, and to collect information, under this title.

(42 U.S.C. 5732)

SEC. 387. DEFINITIONS.

In this title:

(1) DRUG ABUSE EDUCATION AND PREVENTION SERVICES.—The term "drug abuse education and prevention services"—

(A) means services to runaway and homeless youth to prevent or reduce the illicit use of drugs by such youth; and

(B) may include—

(i) individual, family, group, and peer counseling;

(ii) drop-in services;

(iii) assistance to runaway and homeless youth in rural areas (including the development of community support groups);

(iv) information and training relating to the illicit use of drugs by runaway and homeless youth, to indi-

viduals involved in providing services to such youth; and

(v) activities to improve the availability of local drug abuse prevention services to runaway and homeless youth.

(2) HOME-BASED SERVICES.—The term "home-based services"—

(A) means services provided to youth and their families for the purpose of—

(i) preventing such youth from running away, or otherwise becoming separated, from their families; and

(ii) assisting runaway youth to return to their families; and

(B) includes services that are provided in the residences of families (to the extent practicable), including—

(i) intensive individual and family counseling; and

(ii) training relating to life skills and parenting.

(3) HOMELESS YOUTH.—The term "homeless youth" means an individual—

(A) who is—

(i) not more than 21 years of age; and

(ii) for the purposes of part B, not less than 16 years of age;

(B) for whom it is not possible to live in a safe environment with a relative; and

(C) who has no other safe alternative living arrangement.

(4) STREET-BASED SERVICES.—The term "street-based services"—

(A) means services provided to runaway and homeless youth, and street youth, in areas where they congregate, designed to assist such youth in making healthy personal choices regarding where they live and how they behave; and

(B) may include—

(i) identification of and outreach to runaway and homeless youth, and street youth;

(ii) crisis intervention and counseling;

(iii) information and referral for housing;

(iv) information and referral for transitional living and health care services;

(v) advocacy, education, and prevention services related to—

(I) alcohol and drug abuse;

(II) sexual exploitation;

(III) sexually transmitted diseases, including human immunodeficiency virus (HIV); and

(IV) physical and sexual assault.

(5) STREET YOUTH.—The term "street youth" means an individual who—

(A) is—

(i) a runaway youth; or

(ii) indefinitely or intermittently a homeless youth; and

(B) spends a significant amount of time on the street or in other areas that increase the risk to such youth for sexual abuse, sexual exploitation, prostitution, or drug abuse.

(6) TRANSITIONAL LIVING YOUTH PROJECT.—The term "transitional living youth project" means a project that provides shelter and services designed to promote a transition to self-sufficient living and to prevent long-term dependency on social services.

(7) YOUTH AT RISK OF SEPARATION FROM THE FAMILY.—The term "youth at risk of separation from the family" means an individual—

(A) who is less than 18 years of age; and

(B)(i) who has a history of running away from the family of such individual;

(ii) whose parent, guardian, or custodian is not willing to provide for the basic needs of such individual; or

(iii) who is at risk of entering the child welfare system or juvenile justice system as a result of the lack of services available to the family to meet such needs.

(42 U.S.C. 5732a)

SEC. 388. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—

(1) AUTHORIZATION.—There is authorized to be appropriated to carry out this title (other than part E) such sums as may be necessary for fiscal years 2000, 2001, 2002, and 2003.

(2) ALLOCATION.—

(A) PARTS A AND B.—From the amount appropriated under paragraph (1) for a fiscal year, the Secretary shall reserve not less than 90 percent to carry out parts A and B.

(B) PART B.—Of the amount reserved under subparagraph (A), not less than 20 percent, and not more than 30 percent, shall be reserved to carry out part B.

(3) PARTS C AND D.—In each fiscal year, after reserving the amounts required by paragraph (2), the Secretary shall use the remaining amount (if any) to carry out parts C and D.

(4) PART E.—There is authorized to be appropriated to carry out part E such sums as may be necessary for fiscal years 2000, 2001, 2002, and 2003.

(b) SEPARATE IDENTIFICATION REQUIRED.—No funds appropriated to carry out this title may be combined with funds appropriated under any other Act if the purpose of combining such funds is to make a single discretionary grant, or a single discretionary payment, unless such funds are separately identified in all grants and contracts and are used for the purposes specified in this title.

(42 U.S.C 5751)

TITLE IV—MISSING CHILDREN

SHORT TITLE

SEC. 401. This title may be cited as the "Missing Children's Assistance Act".

FINDINGS

SEC. 402. The Congress hereby finds that—

(1) each year thousands of children are abducted or removed from the control of a parent having legal custody without such parent's consent, under circumstances which immediately place them in grave danger;

(2) many of these children are never reunited with their families;

(3) often there are no clues to the whereabouts of these children;

(4) many missing children are at great risk of both physical harm and sexual exploitation;

(5) in many cases, parents and local law enforcement officials have neither the resources nor the expertise to mount expanded search efforts;

(6) abducted children are frequently moved from one locality to another, requiring the cooperation and coordination of local, State, and Federal law enforcement efforts;

(7) on frequent occasions, law enforcement authorities quickly exhaust all leads in missing children cases, and require assistance from distant communities where the child may be located;

(8) Federal assistance is urgently needed to coordinate and assist in this interstate problem;

(9) for 14 years, the National Center for Missing and Exploited Children has—

(A) served as the national resource center and clearinghouse congressionally mandated under the provisions of the Missing Children's Assistance Act [1] of 1984 [2]; and

(B) worked in partnership with the Department of Justice, the Federal Bureau of Investigation, the Department of the Treasury, the Department of State, and many other agencies in the effort to find missing children and prevent child victimization;

(10) Congress has given the Center, which is a private nonprofit corporation, access to the National Crime Information Center of the Federal Bureau of Investigation, and the National Law Enforcement Telecommunications System;

(11) since 1987, the Center has operated the National Child Pornography Tipline, in conjunction with the United States Customs Service and the United States Postal Inspection Service and, beginning this year, the Center established a new CyberTipline on child exploitation, thus becoming "the 911 for the Internet";

(12) in light of statistics that time is of the essence in cases of child abduction, the Director of the Federal Bureau of Investigation in February of 1997 created a new NCIC child abduction ("CA") flag to provide the Center immediate notification in the most serious cases, resulting in 642 "CA" notifica-

[1] So in law. Section 2(a) of the Missing, Exploited, and Runaway Children Protection Act added this paragraph. The language "the Missing Children's Assistance Act" should be "this title".

[2] So in law. There exists an Act entitled the "Missing Children's Assistance Act", but not one entitled the "Missing Children's Assistance Act of 1984".

tions to the Center and helping the Center to have its highest recovery rate in history;

(13) the Center has established a national and increasingly worldwide network, linking the Center online with each of the missing children clearinghouses operated by the 50 States, the District of Columbia, and Puerto Rico, as well as with Scotland Yard in the United Kingdom, the Royal Canadian Mounted Police, INTERPOL headquarters in Lyon, France, and others, which has enabled the Center to transmit images and information regarding missing children to law enforcement across the United States and around the world instantly;

(14) from its inception in 1984 through March 31, 1998, the Center has—

(A) handled 1,203,974 calls through its 24-hour toll-free hotline (1–800–THE–LOST) and currently averages 700 calls per day;

(B) trained 146,284 law enforcement, criminal and juvenile justice, and healthcare professionals in child sexual exploitation and missing child case detection, identification, investigation, and prevention;

(C) disseminated 15,491,344 free publications to citizens and professionals; and

(D) worked with law enforcement on the cases of 59,481 missing children, resulting in the recovery of 40,180 children;

(15) the demand for the services of the Center is growing dramatically, as evidenced by the fact that in 1997, the Center handled 129,100 calls, an all-time record, and by the fact that its new Internet website (www.missingkids.com) receives 1,500,000 "hits" every day, and is linked with hundreds of other websites to provide real-time images of breaking cases of missing children;

(16) in 1997, the Center provided policy training to 256 police chiefs and sheriffs from 50 States and Guam at its new Jimmy Ryce Law Enforcement Training Center;

(17) the programs of the Center have had a remarkable impact, such as in the fight against infant abductions in partnership with the healthcare industry, during which the Center has performed 668 onsite hospital walk-throughs and inspections, and trained 45,065 hospital administrators, nurses, and security personnel, and thereby helped to reduce infant abductions in the United States by 82 percent;

(18) the Center is now playing a significant role in international child abduction cases, serving as a representative of the Department of State at cases under The Hague Convention, and successfully resolving the cases of 343 international child abductions, and providing greater support to parents in the United States;

(19) the Center is a model of public/private partnership, raising private sector funds to match congressional appropriations and receiving extensive private in-kind support, including advanced technology provided by the computer industry such as imaging technology used to age the photographs of long-term missing children and to reconstruct facial images of unidentified deceased children;

(20) the Center was 1 of only 10 of 300 major national charities given an A+ grade in 1997 by the American Institute of Philanthropy; and

(21) the Center has been redesignated as the Nation's missing children clearinghouse and resource center once every 3 years through a competitive selection process conducted by the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice, and has received grants from that Office to conduct the crucial purposes of the Center.

(42 U.S.C. 5771)

DEFINITIONS

SEC. 403. For the purpose of this title—

(1) the term "missing child" means any individual less than 18 years of age whose whereabouts are unknown to such individual's legal custodian if—

(A) the circumstances surrounding such individual's disappearance indicate that such individual may possibly have been removed by another from the control of such individual's legal custodian without such custodian's consent; or

(B) the circumstances of the case strongly indicate that such individual is likely to be abused or sexually exploited;

(2) the term "Administrator" means the Administrator of the Office of Juvenile Justice and Delinquency Prevention; and

(3) the term "Center" means the National Center for Missing and Exploited Children.

(42 U.S.C. 5772)

DUTIES AND FUNCTIONS OF THE ADMINISTRATOR

SEC. 404. (a) The Administrator shall—

(1) issue such rules as the Administrator considers necessary or appropriate to carry out this title;

(2) make such arrangements as may be necessary and appropriate to facilitate effective coordination among all federally funded programs relating to missing children (including the preparation of an annual comprehensive plan for facilitating such coordination);

(3) provide for the furnishing of information derived from the national toll-free telephone line, established under subsection (b)(1), to appropriate entities;

(4) provide adequate staff and agency resources which are necessary to properly carry out the responsibilities pursuant to this title; and

(5) not later than 180 days after the end of each fiscal year, submit a report to the President, Speaker of the House of Representatives, and the President pro tempore of the Senate—

(A) containing a comprehensive plan for facilitating cooperation and coordination in the succeeding fiscal year among all agencies and organizations with responsibilities related to missing children;

(B) identifying and summarizing effective models of Federal, State, and local coordination and cooperation in locating and recovering missing children;

(C) identifying and summarizing effective program models that provide treatment, counseling, or other aid to parents of missing children or to children who have been the victims of abduction;

(D) describing how the Administrator satisfied the requirements of paragraph (4) in the preceding fiscal year;

(E) describing in detail the number and types of telephone calls received in the preceding fiscal year over the national toll-free telephone line established under subsection (b)(1)(A) and the number and types of communications referred to the national communications system established under section 331;

(F) describing in detail the activities in the preceding fiscal year of the national resource center and clearinghouse established under subsection (b)(2);

(G) describing all the programs for which assistance was provided under section 405 in the preceding fiscal year;

(H) summarizing the results of all research completed in the preceding year for which assistance was provided at any time under this title; and

(I)(i) identifying each clearinghouse with respect to which assistance is provided under section 405(a)(9) in the preceding fiscal year;

(ii) describing the activities carried out by such clearinghouse in such fiscal year;

(iii) specifying the types and amounts of assistance (other than assistance under section 405(a)(9)) received by such clearinghouse in such fiscal year; and

(iv) specifying the number and types of missing children cases handled (and the number of such cases resolved) by such clearinghouse in such fiscal year and summarizing the circumstances of each such cases.

(b) ANNUAL GRANT TO NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN.—

(1) IN GENERAL.—The Administrator shall annually make a grant to the Center, which shall be used to—

(A)(i) operate a national 24-hour toll-free telephone line by which individuals may report information regarding the location of any missing child, or other child 13 years of age or younger whose whereabouts are unknown to such child's legal custodian, and request information pertaining to procedures necessary to reunite such child with such child's legal custodian; and

(ii) coordinate the operation of such telephone line with the operation of the national communications system referred to in part C of the Runaway and Homeless Youth Act (42 U.S.C. 5714–11);

(B) operate the official national resource center and information clearinghouse for missing and exploited children;

(C) provide to State and local governments, public and private nonprofit agencies, and individuals, information regarding—

(i) free or low-cost legal, restaurant, lodging, and transportation services that are available for the benefit of missing and exploited children and their families; and

(ii) the existence and nature of programs being carried out by Federal agencies to assist missing and exploited children and their families;

(D) coordinate public and private programs that locate, recover, or reunite missing children with their families;

(E) disseminate, on a national basis, information relating to innovative and model programs, services, and legislation that benefit missing and exploited children;

(F) provide technical assistance and training to law enforcement agencies, State and local governments, elements of the criminal justice system, public and private nonprofit agencies, and individuals in the prevention, investigation, prosecution, and treatment of cases involving missing and exploited children; and

(G) provide assistance to families and law enforcement agencies in locating and recovering missing and exploited children, both nationally and internationally.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this subsection, $10,000,000 for each of fiscal years 2000, 2001, 2002, and 2003.

(c) NATIONAL INCIDENCE STUDIES.—The Administrator, either by making grants to or entering into contracts with public agencies or nonprofit private agencies, shall—

(1) periodically conduct national incidence studies to determine for a given year the actual number of children reported missing each year, the number of children who are victims of abduction by strangers, the number of children who are the victims of parental kidnapings, and the number of children who are recovered each year; and

(2) provide to State and local governments, public and private nonprofit agencies, and individuals information to facilitate the lawful use of school records and birth certificates to identify and locate missing children.

(d) Nothing contained in this title shall be construed to grant to the Administrator any law enforcement responsibility or supervisory authority over any other Federal agency.

(42 U.S.C. 5773)

GRANTS

SEC. 405. (a) The Administrator is authorized to make grants to and enter into contracts with the Center and with public agencies or nonprofit private organizations, or combinations thereof, for research, demonstration projects, or service programs designed—

(1) to educate parents, children, and community agencies and organizations in ways to prevent the abduction and sexual exploitation of children;

(2) to provide information to assist in the locating and return of missing children;

(3) to aid communities in the collection of materials which would be useful to parents in assisting others in the identification of missing children;

(4) to increase knowledge of and develop effective treatment pertaining to the psychological consequences, on both parents and children, of—

(A) the abduction of a child, both during the period of disappearance and after the child is recovered; and

(B) the sexual exploitation of a missing child;

(5) to collect detailed data from selected States or localities on the actual investigative practices utilized by law enforcement agencies in missing children's cases;

(6) to address the particular needs of missing children by minimizing the negative impact of judicial and law enforcement procedures on children who are victims of abuse or sexual exploitation and by promoting the active participation of children and their families in cases involving abuse or sexual exploitation of children;

(7) to address the needs of missing children (as defined in section 403(1)(A)) and their families following the recovery of such children;

(8) to reduce the likelihood that individuals under 18 years of age will be removed from the control of such individuals' legal custodians without such custodians' consent; and

(9) to establish or operate statewide clearinghouses to assist in locating and recovering missing children.

(b) In considering grant applications under this title, the Administrator shall give priority to applicants who—

(1) have demonstrated or demonstrate ability in—

(A) locating missing children or locating and reuniting missing children with their legal custodians;

(B) providing other services to missing children or their families; or

(C) conducting research relating to missing children; and

(2) with respect to subparagraphs (A) and (B) of paragraph (1), substantially utilize volunteer assistance.

The Administrator shall give first priority to applicants qualifying under subparagraphs (A) and (B) of paragraph (1).

(c) In order to receive assistance under this title for a fiscal year, applicants shall give assurance that they will expend, to the greatest extent practicable, for such fiscal year an amount of funds (without regard to any funds received under any Federal law) that is not less than the amount of funds they received in the preceding fiscal year from State, local, and private sources.

(42 U.S.C. 5775)

CRITERIA FOR GRANTS

SEC. 406. (a) In carrying out the programs authorized by this title, the Administrator shall establish—

(1) annual research, demonstration, and service program priorities for making grants and contracts pursuant to section 405; and

(2) criteria based on merit for making such grants and contracts.

Not less than 60 days before establishing such priorities and criteria, the Administrator shall publish in the Federal Register for public comment a statement of such proposed priorities and criteria.

(b) No grant or contract exceeding $50,000 shall be made under this title unless the grantee or contractor has been selected by a competitive process which includes public announcement of the availability of funds for such grant or contract, general criteria for the selection of recipients or contractors, and a description of the application process and application review process.

(c) Multiple grants or contracts to the same grantee or contractor within any 1 year to support activities having the same general purpose shall be deemed to be a single grant for the purpose of this subsection, but multiple grants or contracts to the same grantee or contractor to support clearly distinct activities shall be considered separate grants or contractors.

(42 U.S.C. 5776)

TASK FORCE

SEC. 407.[1] (a) ESTABLISHMENT.—There is established a Missing and Exploited Children's Task Force (referred to as the "Task Force").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Task Force shall include at least 2 members from each of—

(A) the Federal Bureau of Investigation;

(B) the Secret Service;

(C) the Bureau of Alcohol, Tobacco and Firearms;

(D) the United States Customs Service;

(E) the Postal Inspection Service;

(F) the United States Marshals Service; and

(G) the Drug Enforcement Administration.

(2) CHIEF.—A representative of the Federal Bureau of Investigation (in addition to the members of the Task Force selected under paragraph (1)(A)) shall act as chief of the Task Force.

(3) SELECTION.—(A) The Director of the Federal Bureau of Investigation shall select the chief of the Task Force.

(B) The heads of the agencies described in paragraph (1) shall submit to the chief of the Task Force a list of at least 5 prospective Task Force members, and the chief shall select 2, or such greater number as may be agreeable to an agency head, as Task Force members.

[1] The amendment made by section 703(g) of Pub. L. 105–314 repealed subtitle C of title XVII of the Violent Crime Control and Law Enforcement Act of 1994 (enacted by Pub. L. 103–322). Subtitle C of title XVII of Pub. L. 103–322 contains 2 freestanding sections, but also contains section 170303 that added section 407 to (and that redesignated sections of) the Juvenile Justice and Delinquency Prevention Act of 1974. Section 703(g) of Pub. L. 105–314 probably was intended to repeal section 407 of the Juvenile Justice and Delinquency Prevention Act of 1974.

(4) PROFESSIONAL QUALIFICATIONS.—The members of the Task Force shall be law enforcement personnel selected for their expertise that would enable them to assist in the investigation of cases of missing and exploited children.

(5) STATUS.—A member of the Task Force shall remain an employee of his or her respective agency for all purposes (including the purpose of performance review), and his or her service on the Task Force shall be without interruption or loss of civil service privilege or status and shall be on a nonreimbursable basis.

(6) PERIOD OF SERVICE.—(A) Subject to subparagraph (B), 1 member from each agency shall initially serve a 1-year term, and the other member from the same agency shall serve a 1-year term, and may be selected to a renewal of service for 1 additional year; thereafter, each new member to serve on the Task Force shall serve for a 2-year period with the member's term of service beginning and ending in alternate years with the other member from the same agency; the period of service for the chief of the Task Force shall be 3 years.

(B) The chief of the Task Force may at any time request the head of an agency described in paragraph (1) to submit a list of 5 prospective Task Force members to replace a member of the Task Force, for the purpose of maintaining a Task Force membership that will be able to meet the demands of its caseload.

(c) SUPPORT.—

(1) IN GENERAL.—The Administrator of the General Services Administration, in coordination with the heads of the agencies described in subsection (b)(1), shall provide the Task Force office space and administrative and support services, such office space to be in close proximity to the office of the Center, so as to enable the Task Force to coordinate its activities with that of the Center on a day-to-day basis.

(2) LEGAL GUIDANCE.—The Attorney General shall assign an attorney to provide legal guidance, as needed, to members of the Task Force.

(d) PURPOSE.—

(1) IN GENERAL.—The purpose of the Task Force shall be to make available the combined resources and expertise of the agencies described in paragraph (1) to assist State and local governments in the most difficult missing and exploited child cases nationwide, as identified by the chief of the Task Force from time to time, in consultation with the Center, and as many additional cases as resources permit, including the provision of assistance to State and local investigators on location in the field.

(2) TECHNICAL ASSISTANCE.—The role of the Task Force in any investigation shall be to provide advice and technical assistance and to make available the resources of the agencies described in subsection (b)(1); the Task Force shall not take a leadership role in any such investigation.

(e) CROSS-DESIGNATION OF TASK FORCE MEMBERS.—The Attorney General may cross-designate the members of the Task Force with jurisdiction to enforce Federal law related to child abduction to the extent necessary to accomplish the purposes of this section.

(42 U.S.C. 5776a)

AUTHORIZATION OF APPROPRIATIONS

SEC. 408. (a) IN GENERAL.—To carry out the provisions of this title, there are authorized to be appropriated such sums as may be necessary for fiscal years 2000 through 2003.

(b) EVALUATION.—The Administrator may use not more than 5 percent of the amount appropriated for a fiscal year under subsection (a) to conduct an evaluation of the effectiveness of the programs and activities established and operated under this title.

(42 U.S.C. 5777)

TITLE V[1]—INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS

SEC. 501. SHORT TITLE.

This title may be cited as the "Incentive Grants for Local Delinquency Prevention Programs Act of 2002".

(42 U.S.C. 5781)

SEC. 502. DEFINITION.

In this title, the term "State advisory group" means the advisory group appointed by the chief executive officer of a State under a plan described in section 223(a).

(42 U.S.C. 5782)

SEC. 503. DUTIES AND FUNCTIONS OF THE ADMINISTRATOR.

The Administrator shall—

(1) issue such rules as are necessary or appropriate to carry out this title;

(2) make such arrangements as are necessary and appropriate to facilitate coordination and policy development among all activities funded through the Department of Justice relating to delinquency prevention (including the preparation of an annual comprehensive plan for facilitating such coordination and policy development);

(3) provide adequate staff and resources necessary to properly carry out this title; and

(4) not later than 180 days after the end of each fiscal year, submit a report to the chairman of the Committee on Education and the Workforce of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate—

(A) describing activities and accomplishments of grant activities funded under this title;

(B) describing procedures followed to disseminate grant activity products and research findings;

(C) describing activities conducted to develop policy and to coordinate Federal agency and interagency efforts related to delinquency prevention; and

[1] Error created in amendment made by section 5 of Public Law 102–586. There are 2 title V's. The Juvenile Justice and Deliquency Prevention Act of 1974 should be amended to strike title V as enacted by Public Law 93–415.

(D) identifying successful approaches and making recommendations for future activities to be conducted under this title.

(42 U.S.C. 5783)

SEC. 504. GRANTS FOR DELINQUENCY PREVENTION PROGRAMS.

(a) PURPOSES.—The Administrator may make grants to a State, to be transmitted through the State advisory group to units of local government that meet the requirements of subsection (b), for delinquency prevention programs and activities for juveniles who have had contact with the juvenile justice system or who are likely to have contact with the juvenile justice system, including the provision to juveniles and their families of—

(1) alcohol and substance abuse prevention services;

(2) tutoring and remedial education, especially in reading and mathematics;

(3) child and adolescent health and mental health services;

(4) recreation services;

(5) leadership and youth development activities;

(6) the teaching that people are and should be held accountable for their actions;

(7) assistance in the development of job training skills; and

(8) other data-driven evidence based prevention programs.

(b) ELIGIBILITY.—The requirements of this subsection are met with respect to a unit of general local government if—

(1) the unit is in compliance with the requirements of part B of title II;

(2) the unit has submitted to the State advisory group a minimum 3-year comprehensive plan outlining the unit's local front end plans for investment for delinquency prevention and early intervention activities;

(3) the unit has included in its application to the Administrator for formula grant funds a summary of the minimum 3-year comprehensive plan described in paragraph (2);

(4) pursuant to its minimum 3-year comprehensive plan, the unit has appointed a local policy board of not fewer than 15 and not more than 21 members, with balanced representation of public agencies and private nonprofit organizations serving juveniles, their families, and business and industry;

(5) the unit has, in order to aid in the prevention of delinquency, included in its application a plan for the coordination of services to at-risk juveniles and their families, including such programs as nutrition, energy assistance, and housing;

(6) the local policy board is empowered to make all recommendations for distribution of funds and evaluation of activities funded under this title; and

(7) the unit or State has agreed to provide a 50 percent match of the amount of the grant, including the value of in-kind contributions, to fund the activity.

(c) PRIORITY.—In considering grant applications under this section, the Administrator shall give priority to applicants that demonstrate ability in—

(1) plans for service and agency coordination and collaboration including the colocation of services;

(2) innovative ways to involve the private nonprofit and business sector in delinquency prevention activities;

(3) developing or enhancing a statewide subsidy program to local governments that is dedicated to early intervention and delinquency prevention;

(4) coordinating and collaborating with programs established in local communities for delinquency prevention under part C of this subtitle; and

(5) developing data-driven prevention plans, employing evidence-based prevention strategies, and conducting program evaluations to determine impact and effectiveness.

(42 U.S.C. 5784)

SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal years 2004, 2005, 2006, 2007, and 2008.

APPENDIX

CLAUDE PEPPER YOUNG AMERICANS ACT OF 1990

[Public Law 101–501, November 3, 1990 (104 Stat. 1262)]

* * * * * * *

TITLE IX—COORDINATED SERVICES FOR CHILDREN, YOUTH, AND FAMILIES

SEC. 901. SHORT TITLE.

This title may be cited as the "Claude Pepper Young Americans Act of 1990".

(42 U.S.C. 12301 note)

SEC. 902. FINDINGS.

Congress finds that—

(1) children and youth are inherently the most valuable resource of the United States;

(2) the welfare, protection, healthy development, and positive role of children and youth in society are essential to the United States;

(3) children and youth deserve love, respect, and guidance, as well as good health, shelter, food, education, productive employment opportunities, and preparation for responsible participation in community life;

(4) children and youth have increasing opportunities to participate in the decisions that affect their lives;

(5) the family is the primary caregiver and source of social learning and must be supported and strengthened;

(6) when a family is unable to ensure the satisfaction of basic needs of children and youth it is the responsibility of society to assist such family; and

(7) it is the joint and several responsibility of the Federal Government, each State, and the political subdivisions of each State to assist children and youth to secure, to the maximum extent practicable, equal opportunity to full and free access to—

(A) the best possible physical and mental health;

(B) adequate and safe physical shelter;

(C) a high level of educational opportunity;

(D) effective training, apprenticeships, opportunities for community service, and productive employment and participation in decisions affecting their lives;

(E) a wide range of civic, cultural, and recreational activities that recognize young Americans as resources and promote self-esteem and a stake in the communities of such Americans; and

(F) comprehensive community services that are efficient, coordinated, readily available, and involve families of young individuals.

(42 U.S.C. 12301)

SEC. 903. DEFINITIONS.

As used in this title:

(1) COMMISSIONER.—The term "Commissioner" means the Commissioner of the Administration on Children, Youth, and Families, as established under section 915.

(2) COUNCIL.—The term "Council" means the Federal Council on Children, Youth, and Families, as established under section 918(a).

(3) NONPROFIT.—The term "'nonprofit", as applied to any agency, institution, or organization, means an agency, institution, or organization that is, or is owned and operated by, one or more corporations or associations, no part of the net earnings of which may lawfully inure to the benefit of any private shareholder or individual.

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(5) STATE.—The term "State" includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(6) YOUNG INDIVIDUAL.—The term "young individual" means any child or youth from birth to 21 years of age.

(42 U.S.C. 12302)

Subtitle A—Establishment of Administration and Awarding of Grants for Programs

CHAPTER 1—ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES

SEC. 915. ESTABLISHMENT OF THE ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES.

(a) IN GENERAL.—There is established within the Department of Health and Human Services an Administration on Children, Youth, and Families.

(b) COMMISSIONER.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Administration on Children, Youth, and Families, as established under subsection (a), shall be headed by a Commissioner on Children, Youth, and Families.

(B) COMPENSATION.—Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"Commissioner, Administration on Children, Youth, and Families.".

(2) APPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint the Commissioner.

(42 U.S.C. 12311)

SEC. 916. FUNCTIONS OF THE COMMISSIONER.

(a) IN GENERAL.—The Commissioner shall—

(1) serve as the effective and visible advocate for children, youth, and families within the Department of Health and Human Services and with other departments, agencies, and instrumentalities of the Federal Government by maintaining active review and commenting responsibilities, as appropriate, concerning Federal policies affecting young individuals, and the families of young individuals;

(2) collect and disseminate information related to the problems of young individuals and the families of such individuals;

(3) assist the Secretary in appropriate matters pertaining to young individuals, and the families of such individuals;

(4) administer the grants authorized under this subtitle;

(5) develop plans and conduct research in the field of young individuals, and the families of such individuals;

(6) assist, to the maximum extent practicable, in the establishment and implementation of programs designed to meet the needs of young individuals for supportive services including—

(A) health and mental health services;

(B) housing and shelter assistance;

(C) education and training services;

(D) protective services;

(E) foster care;

(F) teen parenting support;

(G) child care;

(H) family support and preservation;

(I) teen pregnancy prevention and counseling;

(J) counseling on the effects of violence in the communities of such individuals and their families;

(K) recreational and volunteer opportunities; and

(L) comprehensive early childhood development;

(7) provide technical assistance and consultation to States and the political subdivisions of such States with respect to programs for young individuals;

(8) prepare, publish, and disseminate educational materials concerning the welfare of young individuals;

(9) gather statistics concerning young individuals, and the families of such individuals, that other Federal agencies are not collecting;

(10) to the maximum extent practicable coordinate activities carried out or assisted by all departments, agencies, and instrumentalities of the Federal Government with respect to the collection, preparation, and dissemination of information relevant to young individuals and the families of such individuals;

(11) stimulate more effective uses of existing resources and available services for young individuals and the families of such individuals;

(12) develop basic policies and set priorities with respect to the development and operation of programs and activities conducted under this title;

(13) convene conferences of authorities and officials of organizations, including Federal, State, and local agencies, and nonprofit private organizations, of programs for children, youth and their families for the development and implementation of policies related to the priorities and purposes of this title, including topics such as the establishment of a nationwide network of comprehensive, coordinated services and opportunities for such individuals;

(14) conduct periodic evaluations of the programs and activities related to the purposes of this title; and

(15) develop, in coordination with other agencies, methods to ensure adequate training for personnel concerning children, youth and families and to ensure the adequate dissemination of such information to appropriate State and community agencies.

(b) ENCOURAGEMENT OF VOLUNTEERISM.—In executing the duties and functions of the Administration under this subtitle and in carrying out the programs and activities authorized under this title, the Commissioner, in consultation with the Chief Executive Officer of the Corporation for National and Community Service, shall take necessary steps to coordinate with and seek the advice of voluntary agencies and organizations that provide services related to the purposes of this title.

(42 U.S.C. 12312)

SEC. 917. FEDERAL AGENCY CONSULTATIONS.

(a) IN GENERAL.—The Commissioner shall consult and cooperate with the heads of all appropriate Federal agencies or departments administering programs or services that are substantially related to the purposes of this title.

(b) INTERAGENCY AGREEMENTS.—To the extent practicable, the Commissioner shall facilitate cooperation through the entering into of interagency agreements.

(42 U.S.C. 12313)

SEC. 918. FEDERAL COUNCIL ON CHILDREN, YOUTH, AND FAMILIES.

(a) ESTABLISHMENT.—There is established a Federal Council on Children, Youth, and Families.

(b) NUMBER OF MEMBERS.—The Council shall be composed of 18 members to be appointed in accordance with subsection (d).

(c) TERM OF MEMBERSHIP.—Each member of the Council shall serve for a 3-year term without regard to title 5, United States Code.

(d) APPOINTMENT OF MEMBERS.—

(1) IN GENERAL.—The Council shall be composed of—

(A) six members who posess [1] such skills and qualifications so as to be representative of—

(i) rural and urban populations; and

(ii) national organizations with an interest in young individuals, families, early childhood develop-

[1] Error in original. Should strike "posess" and insert "possess".

ment, elementary and secondary education, business, labor, minorities, and the general public;

(B) six members who are representatives of public, State or local agencies that serve children, youth and their families and include representatives of child welfare and child mental health agencies; and

(C) six members who are cabinet-level representatives of Federal agencies that have responsibility for programs relating to children, youth and families.

(2) AGE OF MEMBERS.—At least one of the individuals appointed to the Council under paragraph (1)(A) shall be under the age of 21 at the time of such appointment.

(3) APPOINTING AUTHORITY.—Of the members of the Council who are appointed under paragraph (1)—

(A) six of the members described under subparagraphs (A) and (B) shall be appointed by the President pro tempore of the Senate on the recommendation of the Majority and Minority Leaders of the Senate;

(B) six of the members described under subparagraphs (A) and (B) shall be appointed by the Speaker of the House of Representatives on the recommendation of the Majority and Minority Leaders of the House of Representatives; and

(C) the members described under subparagraph (C) shall be appointed by the President.

(e) VACANCY.—

(1) FILLING VACANCY.—A vacancy on the Council shall be filled in the same manner in which the original appointment was made.

(2) POWERS OF BOARD [1].—A vacancy on the Council shall not affect the powers of the Council.

(3) TERM OF APPOINTMENT.—A member of the Council who is appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term.

(f) REAPPOINTMENT.—Each member of the Council shall be eligible for reappointment to the Council.

(g) EXPIRATION OF TERM.—Each member of the Council may serve after the expiration of the term of membership until the successor of such member has taken office.

(h) TRAVEL EXPENSES.—Each member of the Council, while serving on business of the Council away from the home or regular place of business of such member, may be allowed subsistence in the same manner as the expenses authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

(i) CHAIRPERSON.—The President shall designate the Secretary of Health and Human Services to serve as the Chairperson of the Council. In the event that the Secretary chooses to designate the functions of Chairperson under this subsection, such designation may only be made to the Commissioner.

[1] Error in original. Should strike "BOARD" and insert "COUNCIL".

(j) MEETINGS.—Not less than once during each 6-month period, the Chairperson of the Council shall call a meeting of the Council.

(k) DUTIES OF THE COUNCIL.—The Council shall—

(1) advise and assist the President on matters relating to the special needs of young individuals;

(2) review, evaluate, and inventory on a continuing basis Federal policies, programs and other activities affecting young individuals that are conducted or assisted by all Federal departments and agencies for the purpose of appraising the value and the impact of such policies, programs, and activities on the lives of young individuals, and of identifying duplication of services for young individuals and the families of such individuals;

(3) make recommendations to the President, the Secretary, the Commissioner, the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate concerning changes in such policies and programs that can streamline services, reduce duplication of services and encourage the coordination of services provided to young individuals and the families of such individuals at the State and local level;

(4) provide public forums, including public hearings, conferences, workshops, and other meetings, for discussing and publicizing the problems and needs of young individuals and obtaining information relating to such individuals;

(6)[1] identify program regulations, practices, and eligibility requirements that impede coordination and collaboration and make recommendations for their modifications or elimination; and

(7) develop recommendations for creating jointly funded programs, unified assessments, eligibility, and application procedures, and confidentiality protections that facilitate information sharing.

(l) STAFF.—The Chairperson shall appoint staff personnel to assist the Chairperson in carrying out the duties required under subsection (k).

(m) INFORMATION AND ASSISTANCE.—The head of each Federal department and agency shall make available to the Chairperson such information and other assistance as the Chairperson may require to carry out the duties required under subsection (k).

(n) REPORTS.—

(1) SUBMISSION TO THE PRESIDENT.—In fiscal year 1992 and each fiscal year thereafter, the Chairperson shall prepare and submit—

(A) interim reports as the Chairperson considers to be appropriate; and

(B) an annual report of the findings and recommendations of the Council concerning the matters described in paragraphs (2) and (3) of subsection (k);

to the President not later than March 31 of each year.

(2) REVIEW AND SUBMISSION TO CONGRESS.—

[1] Amendment made by section 402(a)(1)(C) of the Human Services Amendments of 1994 (Public Law 103–252) added paragraphs (6)–(7).

(A) COMMENTS AND RECOMMENDATIONS.—The President may make comments and recommendations concerning reports submitted under paragraph (1).

(B) SUBMISSION TO CONGRESS.—The President shall submit such comments, recommendations, and reports to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(o) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to carry out this section $200,000 for each of the fiscal years 1995 through 1998.

(p) TERMINATION.—The Council shall terminate on September 30, 1998.

(42 U.S.C. 12314)

SEC. 919. ADMINISTRATION.

(a) DUTIES OF COMMISSIONER.—In carrying out this subtitle, the Commissioner is authorized to—

(1) provide consultative services, technical assistance, and short-term training to the independent State bodies;

(2) conduct research and demonstrations;

(3) collect, prepare, publish, and disseminate special educational or informational materials, including reports of the projects for which funds are provided under this subtitle;

(4) provide staff and other technical assistance to the Council;

(5) evaluate the effectiveness of programs authorized under this subtitle and periodically publish analyses of the results of such evaluations; and

(6) not later than 180 days after the end of each fiscal year, prepare and submit, to the President and the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on Labor and Human Resources of the Senate, a report concerning the activities carried out under this subtitle and concerning such other activities as the Secretary determines appropriate.

(b) UTILIZATION OF SERVICES AND FACILITIES.—

(1) IN GENERAL.—Subject to agreements made between the Commissioner and the head of such agency or organization, in carrying out the duties referred to in subsection (a) the Commissioner may utilize the services and facilities of any agency of the Federal Government and of any other public or nonprofit agency or organizations.[1]

(2) PAYMENT.—The Commissioner may pay for such services and facilities, in advance or by way of reimbursement, as may be provided in such agreement.

(c) RESERVATION OF FUNDS.—Of the aggregate amount appropriated to carry out this title in any fiscal year, the Secretary may reserve not more than 10 percent for salaries and expenses of the Administration on Children, Youth, and Families related to the administration of this title.

(42 U.S.C. 12315)

[1] Error in original. Should strike "organizations" and insert "organization".

CHAPTER 2—GRANTS FOR STATE AND COMMUNITY PROGRAMS FOR CHILDREN, YOUTH, AND FAMILIES

SEC. 925. PURPOSE.

It is the purpose of this chapter to encourage and assist State and local agencies to coordinate resources, reduce barriers to services, and develop new capacities to ensure that State and community services designed to serve children, youth, and families are more effective and comprehensive.

(42 U.S.C. 12331)

SEC. 926. DEFINITIONS.

As used in this chapter:

(1) COMMUNITY REFERRAL SERVICES.—The term "community referral services" means services to assist families in obtaining community resources, including health care, mental health care, employability development and job training, and other social services.

(2) CORE SERVICES.—The term "core services" means—

(A) educational and support services provided to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children; and

(B) the early developmental screening of children to assess any needs of such children and to identify specific types of support that may be provided;

(C) outreach services;

(D) community referral services; and

(E) follow up services.

(3) FOLLOW UP SERVICES.—The term "follow up services" means services provided to ensure that necessary services are received by families and are effective in meeting their needs.

(4) INDEPENDENT STATE BODY.—The term "independent State body" means the entity established under section 930.

(5) LEAD AGENCY.—The term "lead agency" means an existing State agency, or other public or nonprofit private entity designated by the chief executive officer of the State as the agency responsible for the development and implementation of local family resource and support programs. Such agency shall have demonstrated ability to work with other State and community based agencies, to provide training and technical assistance, and shall also have a commitment to parental participation in the design and administration of family resource and support programs.

(6) OTHER SERVICES.—The term "other services" and "other support services" includes—

(A) child care, early childhood development and intervention programs;

(B) employability development services (including skill training);

(C) educational services, such as scholastic tutoring, literacy training, and General Educational Degree (GED) services;

(D) nutritional education;

(E) life management skills training;

(F) peer counseling and crisis intervention, family violence counseling and referrals for such services;

(G) referral for substance abuse counseling and treatment referral; and

(H) referral for primary health and mental health services.

(7) OUTREACH SERVICES.—The term "outreach services" means services provided to ensure (through home visits or other methods) that parents are aware of and able to participate in family resource and support program activities.

(42 U.S.C. 12332)

SEC. 927. ESTABLISHMENT OF PROGRAMS.

The Commissioner shall make grants—

(1) in each State under section 931 to improve State planning and coordination of services, and under section 932 to expand supportive services, in order to promote the availability of developmental, preventive, and remedial services to children, youth and their families that are designed to ensure—

(A) adequate and safe physical shelter whether in their own homes or, if necessary, in out-of-home programs;

(B) high quality physical and mental health care;

(C) the enhancement of the development of children to ensure that children enter school prepared and ready to learn;

(D) highest quality educational opportunity;

(E) effective training and apprenticeships to increase the likelihood of employment;

(F) opportunities for community service and productive employment, and for participation by children and youth in decisions affecting the lives of such children and youth; and

(G) a wide range of civic, cultural, and recreational activities that recognize young individuals as resources and promote self-esteem and a sense of community; and

(2) to States on a competitive basis under section 933 to establish family resource programs (including family support centers) in order to enhance the ability of families to remain together and to thrive through the provision of community based services that—

(A) promote and build family and parenting skills;

(B) promote and assist families in the use of formal and informal family support services;

(C) create a support network to strengthen and reinforce good parenting; and

(D) are closely linked with, but not duplicative of, other community resources.

(42 U.S.C. 12333)

SEC. 928. ADMINISTRATION.

(a) IN GENERAL.—The Commissioner shall administer programs under this chapter through the Administration on Children, Youth, and Families.

(b) TECHNICAL ASSISTANCE.—In carrying out this chapter, the Commissioner may request the technical assistance and cooperation of the Secretary of Education, the Secretary of Labor, the Attorney General, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Director of the Office of Community Services, and such other agencies and departments of the Federal Government as may be appropriate.

(42 U.S.C. 12334)

SEC. 929. STATE PLAN.

(a) SUBMISSION OF PLAN.—The chief executive officer of a State, in order to be eligible for grants from an allotment under section 931, 932, or 933 for any fiscal year, shall prepare and submit to the Commissioner a State plan for a 3-year period.

(b) REVISIONS OF PLAN.—Each chief executive officer of a State may make annual revisions of the State plan referred to in subsection (a).

(c) CONTENT OF PLAN.—The chief executive officer of a State shall include within the State plan of that State assurances as required under sections [1] 931, 932, or 933, and a description of the proposed multi-year plans of the State for program development and implementation.

(d) TYPE OF APPLICATION.—A State may apply for funds under one or more of the following categories:

(1) section 931;

(2) sections 931 and 932 jointly; or

(3) section 933.

In the case of each category, the State application and plan shall comply only with the requirements of the appropriate section.

(e) APPROVAL OF PLAN.—

(1) IN GENERAL.—The Commissioner shall approve any State plan under sections 931 and 932 that the Commissioner determines meets the requirements of such sections.

(2) NOTICE AND OPPORTUNITY TO CORRECT DEFICIENCIES.—The Commissioner shall not make a final determination disapproving any State plan, modifying such plan, or declaring a State to be ineligible to receive funds under sections 931 and 932 without previously affording such State reasonable notice and opportunity to correct deficiencies in its application.

(42 U.S.C. 12335)

SEC. 930. INDEPENDENT STATE BODY.

(a) DESIGNATION.—A State shall not be eligible to receive a grant from an allotment under section 931 or 932 unless—

(1) the chief executive officer of such State designates an independent State body that is composed of—

(A) cabinet level representatives from each agency of such State that has responsibilities for programs affecting young individuals who shall comprise a majority of the independent State body; and

(B) individuals appointed from among—

(i) private nonprofit providers of services to young individuals;

[1] Error in original. Should strike "sections" and insert "section".

(ii) advocacy and citizens groups concerned with young individuals;

(iii) committees of the legislature of such State that have responsibility for young individuals;

(iv) leaders who are young individuals, including such leaders who are recipients of services provided under this subtitle;

(v) representatives of the business community;

(vi) representatives of employees of providers of services to young individuals;

(vii) representatives of general purpose local government; and

(viii) such staff as shall be necessary to—

(I) develop a State plan to be submitted to the Commissioner for approval under section 931;

(II) administer and monitor the State plan within such State;

(III) assist in the coordination of all State activities related to the purpose of the title;

(IV) serve as an effective and visible advocate for young individuals by reviewing and commenting on all State plans, budgets, and policies that affect such individuals and the families of such individuals by providing technical assistance to any agency, organization, association, or individual representing the needs of young individuals; and

(2) the independent State body designated under paragraph (1)—

(A) develops a system for the distribution within the State of funds received under sections 931 and 932 by the chief executive officer;

(B) submits a description of such system to the Commissioner for review and comment; and

(C) ensures that preference will be given in such distribution of funds to developing or supporting local service delivery systems that—

(i) provide a range of services organized to tailor responses to needs rather than a predetermined array of services;

(ii) are rooted in and part of the communities that such systems are designed to serve as measured by the degree to which public and private community leaders and young individuals participate in the planning of such systems; and

(iii) demonstrate an ability to develop systematic collaboration among service providers on behalf of children, youth and families, including joint planning, joint financing, joint service delivery, common intake and assessment, and other arrangements that promote more effective service systems for such individuals.

(b) EXISTING ENTITY.—The Commissioner may approve a State plan in which the chief executive officer of the State designates as the independent State body an existing State entity that is com-

prised of the parties described in subsection (a) and that is authorized to conduct the same range of interagency planning and coordination activities.

(42 U.S.C. 12336)

SEC. 931. STATE COORDINATION OF SERVICES.

(a) AUTHORITY.—The Commissioner shall make grants under this section to States on a formula basis for the purpose of improving the coordination of services provided to children, youth, and families.

(b) APPLICATION.—To be eligible to receive a grant under this section, the chief executive officer of a State shall prepare and submit to the Commissioner an application containing a plan providing assurances that—

(1) the independent State body is committed to interagency planning that results in statewide policies promoting systematic collaboration among agencies on behalf of young individuals as demonstrated by joint planning, joint financing, joint service delivery, common intake and assessment, and other arrangements that reduce barriers to services and promote more effective local service delivery systems for young individuals;

(2) such plan will be based on needs as identified through an analysis of updated reports (such as "State of the Child" reports) prepared by the State, including detailed information gathered by the State, to the extent practicable, on young individuals and the families of such individuals concerning—

(A) age, sex, race, and ethnicity;

(B) the residences of such individuals;

(C) the incidence of homelessness among such individuals;

(D) the composition of families of such individuals;

(E) the economic situations of such individuals;

(F) the incidence of poverty among such individuals;

(G) experiences in the care of such individuals away from home;

(H) the health of such individuals;

(I) violence in the homes or communities of such individuals;

(J) the nature of the attachment of such individuals to school and work;

(K) dropout rates of such individuals from school; and

(L) the character of the communities in which such individuals reside;

(3) the system to be used for the distribution of funds within the State will require that—

(A) each area have an equal opportunity to apply for or receive funds under this chapter; and

(B) the public be given an opportunity to express views concerning the development and administration of such plan;

(4) the independent State body will provide an inventory of existing public and private services for children, youth and their families and will evaluate the need for supportive services within the State to address the purposes of this title and

determine the extent to which existing public and private programs meet such need;

(5) the independent State body will make such reports, in such form, and containing such information, as the Commissioner may require;

(6) such fiscal control and fund accounting procedures will be adopted as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid under this chapter to the chief executive officer of the State, including any such funds paid to the recipients of a grant or contract;

(7) the independent State body will conduct periodic evaluations of activities and projects carried out pursuant to sections 931 and 932 and will report the results and recommendations to the chief executive officer of the State and the State legislature;

(8) the chief executive officer of the State will provide technical assistance or in-service training opportunities for personnel responsible for carrying out the purposes of sections 931 and 932; and

(9) the chief executive officer of each State will provide for the implementation of the requirements of section 932, relating to supportive services.

(c) USE OF GRANTS TO STATES.—Notwithstanding section 934(g), the amounts made available to each State under section 934(a) may be used to make grants to a State to enable such State to pay such percentages as the independent State body of such State determines to be appropriate, of the cost of administering the State plan of such State including—

(1) the costs of the preparation of such plan and the provision of technical assistance to local areas;

(2) the costs of the evaluation of activities carried out under such plan;

(3) the costs of the collection of data and the carrying out of analyses related to the need for supportive services within the State;

(4) the costs of the dissemination of information obtained under paragraph (3); and

(5) the costs of the provision of short-term training to personnel of public or nonprofit private agencies and organizations engaged in the operation of programs authorized by this chapter.

(e)[1] SUPPLEMENT NOT SUPPLANT.—Amounts received by a State under sections 931 and 932 shall be used only to supplement, not to supplant, the amount of Federal, State, and local funds expended for the purposes for which grants are made under sections 931 and 932. In no event shall such expenditures be used to satisfy the matching requirements of any other Federal program.

(f)[1] RELATIONSHIP TO FAMILY RESOURCE AND SUPPORT PROGRAM GRANTS.—If a State intends to apply for a grant under section 933 to be used for the same calendar year as the grant under this section, such State shall include in the application for a grant under this section a description of plans for family resource and

[1] Error in original. These subsections should be redesignated as subsections (d) and (e).

support programs and for the coordination of the use of all funds received under this chapter.

(42 U.S.C. 12337)

SEC. 932. SUPPORTIVE SERVICES.

(a) AUTHORITY.—The Commissioner shall carry out a program for making grants to a State, that has designated an independent State body under section 930 and provided for coordinated services under section 931, for distribution by the chief executive officer under a State plan approved under section 931 to demonstrate successful program approaches to fill service gaps identified through State planning and advocacy efforts for any of the areas specified in paragraph (2).

(b) ELIGIBLE SERVICES.—The services eligible to be provided under subsection (a) are services—

(1) that are designed to facilitate the provision of comprehensive community based services that are efficient, coordinated, and readily available through such activities as case planning, case management, intake and assessment, and information and referral; and

(2) that serve any of the following purposes—

(A) provide adequate and safe physical shelter to young individuals and the families of such individuals, especially in emergency circumstances;

(B) provide transitional living services to young individuals who are homeless;

(C) enable young individuals to attain and maintain physical and mental well-being;

(D) provide health screening to detect or prevent illnesses, or both, that occur most frequently in young individuals as well as better treatment and counseling;

(E) enhance the development of children to ensure that such children enter school prepared and ready to learn;

(F) promote the highest quality of educational opportunity, especially through drop-out prevention programs, remediation for young individuals who have dropped out of school, and vocational education;

(G) provide effective training apprenticeships and employment opportunities;

(H) promote participation in community service and civic, cultural, and recreational activities that value young individuals as resources and promote self-esteem and a stake in the community;

(I) promote the participation of young individuals in decisions concerning planning and managing the lives of such individuals;

(J) encourage young individuals and the families of such individuals to use any community facilities and services that are available to such individuals;

(K) ensure that young individuals who are unable to live with the biological families of such individuals have a safe place to live until such individuals can return home or move into independent adult life; and

(L) prevent the abuse, neglect, or exploitation of young individuals.

(42 U.S.C. 12338)

SEC. 933. [Repealed by Public Law 103–252]

SEC. 934. AUTHORIZATION OF APPROPRIATION AND ALLOTMENT.

(a) ADMINISTRATION ON CHILDREN, YOUTH, AND FAMILIES; STATE COORDINATION; SUPPORTIVE SERVICES.—

(1) There are authorized to be appropriated to carry out sections 931 and 932 such sums as may be necessary for each of the fiscal years 1995 through 1998.

(2) AVAILABILITY OF APPROPRIATION.—Of the amount appropriated under paragraph (1) for any fiscal year—

(A) not more than 10 percent shall be available to carry out section 919; and

(B) not less than 90 percent shall be available to carry out sections 931 and 932.

(3) ALLOTMENT FORMULA.—Except as provided in paragraph (4), from the amount available under paragraph (2)(B) for each fiscal year, a State shall be allotted an amount that bears the same ratio to the amount appropriated for such fiscal year as the population of the State that is under the age of 21 bears to the population of all States that is under the age of 21.

(4) EXCEPTIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and subject to the availability of appropriations under paragraph (1), no State shall be allotted less than $300,000 under the formula established under paragraph (3).

(B) LIMITATION ON ALLOTMENT.—Notwithstanding subparagraph (A), Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than $75,000 under the formula established under paragraph (2).

(b) DETERMINATION OF AGE.—The number of individuals under the age of 21 in each State shall be determined by the Commissioner on the basis of the most recent data available to the Commissioner.

(c) TRANSFER OF ALLOTTED FUNDS.—Whenever the Commissioner determines that—

(1) any amount allotted to a State for a fiscal year under section 931 or 932 will not be used by such State for carrying out the purpose for which such allotment was made; or

(2) a State has failed to qualify under the State plan required under section 929;

the Commissioner shall make such allotment available for carrying out such purposes to other participating States in a proportional manner based on the relative population of the State of individuals under the age of 21.

(d) [Repealed by P.L. 103–252]

(e) LIMITATION.—A State shall not use in excess of 10 percent of a grant awarded under section 932 or 933 for administrative activities at the State level.

(f) GRANTS FOR INDIANS.—The Commissioner shall use 1 percent of the amount appropriated under this section for each fiscal year to make allotments to Indian tribes and tribal organizations (such terms having the same meaning given to such terms in section 4(b) and 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b (b) and (c))) that submit to the Commissioner a plan that meets criteria consistent with the provisions of this chapter and that comply with other requirements established by the Commissioner.

(g) LIMITATION.—Grants made under this subtitle may be used to pay not more than 80 percent of the cost of—

(1) the preparation, administration, and evaluation of State plans under section 931;

(2) the development of comprehensive, efficient, coordinated supportive services under section 932; and

(3) the development, expansion, and operation of local family support and resource programs under section 933.

The remaining 20 percent of such cost shall be paid by the State with funds from non-Federal sources.

(42 U.S.C. 12340)

CHAPTER 3—NATIONAL CLEARINGHOUSE

SEC. 955. SHORT TITLE.

This chapter may be cited as the "Family Resource Act".

(42 U.S.C. 12301 note)

SEC. 956. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) fundamental changes in the demographics and economics of family life in the United States over the past 20 years have had a profound effect on children and their parents;

(2) since 1966, the number of women working outside the home has increased by 92 percent and the number of two earner families has increased by over 50 percent;

(3) 61 percent of the children born today will live in a single-parent family before reaching the age of 20, with one out of every three single female heads of households living on income below the Federal poverty level;

(4) one out of every four children under the age of 6 in the United States currently lives below the Federal poverty level;

(5) over the past 10 years, parents have increasingly come together with other parents to organize family resource and support programs that promote healthy child development and increase parental competency, particularly families at risk; and

(6) Federal investment in promoting the development of family resource and support programs will reap long-term benefits for individual families and the nation as a whole.

(b) PURPOSE.—It is the purpose of this Act [1] to—

(1) stimulate the development and expansion of family resource and support programs that are prevention oriented;

(2) encourage early intervention of such programs with families to ameliorate problem situations before such situations become crises; and

(3) assist parents in enhancing their children's development to ensure that their children enter school prepared and ready to learn.

(42 U.S.C. 12351)

SEC. 957. DEFINITION.

As used in this chapter, the term "family resource and support programs" means community-based services that offer sustained assistance to families at various stages in their development. Such services shall promote parental competencies and behaviors that will lead to the healthy and positive personal development of parents and children through—

(1) the provision of assistance to build family skills and assist parents in improving their capacities to be supportive and nurturing parents;

(2) the provision of assistance to families to enable such families to use other formal and informal resources and opportunities for assistance that are available within the communities of such families; and

(3) the creation of supportive networks to enhance the childrearing capacity of parents and assist in compensating for the increased social isolation and vulnerability of families.

(42 U.S.C. 12352)

SEC. 958. ESTABLISHMENT OF NATIONAL CENTER ON FAMILY RESOURCE AND SUPPORT PROGRAMS.

(a) ESTABLISHMENT.—The Commissioner shall establish, through grant or contract, a national center for the collection and provision of programmatic information and technical assistance that relates to all types of family resource and support programs, to be known as the "National Center on Family Resource and Support Programs".

(b) FUNCTIONS.—The national center established under subsection (a) shall serve as a national information and data clearinghouse, training, technical assistance, and material development source for family resource and support programs. Such center shall—

(1) develop and maintain a system for disseminating information on all types of family resource and support programs and on the state of family resource and support program development, including information concerning the most effective model programs;

(2) develop and sponsor a variety of training institutes and curricula for family resource and support program staff;

(3) identify several programs representing the various types of family resource and support programs to develop tech-

[1] Error in original. Should strike "Act" and insert "chapter".

nical assistance materials and activities to assist other agencies in establishing family resource and support programs; and

(4) develop State-wide [1] networks of family resource and support programs for the purpose of sharing and disseminating information.

(42 U.S.C. 12353)

SEC. 959. EVALUATION.

The Commissioner shall, through grants or contracts awarded or entered into with independent auditors, conduct evaluations and related activities, of family resource and support programs, including—

(1) evaluations of on-going programs;

(2) process evaluations focusing on implementation strategies; and

(3) the development of simple evaluation models for use by local family resource and support programs.

(42 U.S.C. 12354)

SEC. 960. AUTHORIZATION OF APPROPRIATIONS.

(a) ESTABLISHMENT OF CENTER.—To carry out section 958, there are authorized to be appropriated $2,000,000 for each of the fiscal years 1995 through 1998.

(b) EVALUATION.—To carry out section 959, there are authorized to be appropriated $1,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996 through 1998.

(42 U.S.C. 12355)

Subtitle B—White House Conference on Children, Youth, and Families

SEC. 981. SHORT TITLE.

This subtitle may be cited as the "1993 White House Conference on Children, Youth, and Families".

(42 U.S.C. 12301 note)

SEC. 982. FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) children and youth are inherently our most valuable resource and their welfare, protection, healthy development, and positive role in society are essential to the Nation;

(2) children and youth deserve love, respect, and guidance, as well as good health, shelter, food, education, productive work, and preparation for responsible participation in community life;

(3) an increasing opportunity for children and youth to participate in the decisions that affect their lives is essential;

(4) the family is the primary caregiver and the source of social learning which must be supported and strengthened, but when families are unable to ensure the satisfaction of the

[1] Error in original. Should strike "State-wide" and insert "statewide".

needs of children and youth, it is society's responsibility to assist them;

(5) at a minimum, all children and youth need and deserve access to—

(A) the best possible physical and mental health;

(B) adequate and safe physical shelter;

(C) the highest quality of educational opportunity;

(D) effective training, apprenticeships, opportunities for community service, and productive employment;

(E) the widest range of civic, cultural, and recreational activities which recognize young Americans as resources and promote self-esteem and a stake in their communities;

(F) comprehensive community services which are efficient, coordinated, and readily available; and

(G) genuine participation in decisions concerning the planning and managing of their lives; and

(6) there is a great need for a comprehensive national policy with respect to young individuals, designed to engage Federal, State, and local government agencies, youth organizations, and other voluntary organizations.

(b) STATEMENT OF POLICY.—It is the policy of the Congress that the Federal Government should work jointly with the States and their citizens to develop recommendations and plans for action to meet the challenge and needs of young individuals.

(42 U.S.C. 12371)

SEC. 983. AUTHORITY OF THE PRESIDENT AND SECRETARY; FINAL REPORT.

(a) CALLING OF THE CONFERENCE.—The President shall call a White House Conference on Children, Youth, and Families in 1993 in order to develop recommendations for further action in the field of children, youth, and families which will further the policy set forth in section 982(b). The Conference shall be planned and conducted under the direction of the Secretary in cooperation with the Commissioner and with the heads of such other Federal departments and agencies as are appropriate. Such assistance may include the assignment of personnel.

(b) PURPOSES OF THE CONFERENCE.—The purposes of the Conference shall be—

(1) to increase the public awareness of the value and needs of young individuals;

(2) to examine the well-being of young individuals as well as the problems which they face;

(3) to describe the extent to which young individuals with identified needs do not receive services to meet such needs;

(4) to determine the reasons why young individuals are not receiving needed services; and

(5) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate to improve the well-being of youth and their families.

(c) CONFERENCE PARTICIPANTS AND DELEGATES.—

(1) PARTICIPANTS.—In order to carry out the purposes of the Conference, the Conference shall bring together—

(A) representatives of Federal, State, and local governments, including representatives of the General Accounting Office;

(B) professionals who are working in the field of children, youth, and families; and

(C) representatives of the general public, particularly young individuals.

(2) SELECTION OF DELEGATES.—The delegates to attend the Conference shall be selected without regard to political affiliation or past partisan activity and shall, to the best of the appointing authority's ability, be representative of the spectrum of thought in the field of children, youth, and families.

(42 U.S.C. 12372)

SEC. 984. CONFERENCE ADMINISTRATION.

(a) ADMINISTRATION.—For purposes of carrying out this subtitle, the Secretary shall—

(1) request the cooperation and assistance of the heads of such other Federal departments and agencies as may be appropriate;

(2) furnish all reasonable assistance to State agencies administering programs related to children, youth and families, and to other appropriate organizations, to enable them to organize and conduct conferences in conjunction with the Conference;

(3) prepare and make available for public comment a proposed agenda for the Conference which reflects, to the greatest extent possible, the major issues facing children, youth, and families consistent with subsection (a);

(4) prepare and make available background materials which the Secretary deems necessary for the use of delegates to the Conference; and

(5) engage such additional personnel as may be necessary to carry out this section without regard to provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) DUTIES.—The Secretary shall, in carrying out the Secretary's responsibilities and functions under this section, ensure that—

(1) the conferences under subsection (a)(2) will be conducted so as to ensure broad participation of young individuals;

(2) the proposed agenda for the Conference under subsection (a)(3) is published in the Federal Register not less than 180 days before the beginning of the Conference and the proposed agenda is open for public comment for a period of not less than 60 days;

(3) the final agenda for the Conference, taking into consideration the comments received under paragraph (2), is published in the Federal Register and transmitted to the chief executive officers of the States not later than 30 days after the close of the public comment period provided for under paragraph (2);

(4) the personnel engaged under subsection (a)(5) shall be fairly balanced in terms of points of views represented and shall be appointed without regard to political affiliation or previous partisan activities;

(5) the recommendations of the Conference are not inappropriately influenced by any appointing authority or by any special interest, but will instead be the result of the independent judgment of the Conference; and

(6) to the extent practicable, current and adequate statistical data (including decennial census data) and other information on the well-being of young individuals in the United States are readily available, in advance of the Conference, to the delegates of the Conference, together with such information as may be necessary to evaluate Federal programs and policies relating to children and youth. In carrying out this subparagraph, the Secretary may make grants to, and enter into contracts with, public agencies and nonprofit private organizations.

(42 U.S.C. 12373)

SEC. 985. CONFERENCE COMMITTEES.

(a) ADVISORY COMMITTEE.—The Secretary shall establish an advisory committee to the Conference which shall include representatives from the Federal Council on Children, Youth, and Families, public agencies and nonprofit private organizations as appropriate.

(b) OTHER COMMITTEES.—The Secretary may establish such other committees, including technical committees, as may be necessary to assist in the planning, conducting, and reviewing of the Conference.

(c) COMPOSITION OF COMMITTEES.—Each committee established under this section shall be composed of professionals and public members, and shall include individuals from low-income families and from minority groups.

(d) COMPENSATION.—Members of any committee established under this section (other than any officers or employees of the Federal Government), while attending conferences or meetings of the committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not to exceed the daily rate payable for GS–18 of the General Schedule under section 5332 of title 5, United States Code (including travel time). While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of such title for persons employed intermittently in Federal Government service.

(42 U.S.C. 12374)

SEC. 986. REPORT OF THE CONFERENCE.

(a) PROPOSED REPORT.—A proposed report of the Conference which shall include a statement of comprehensive coherent national policy on children, youth, and families together with recommendations for the implementation of such policy, shall be published and submitted to the chief executive officers of the States not later than 180 days following the date on which the Conference

is adjourned. The findings and recommendations included in the published proposed report shall be available immediately to the public.

(b) RESPONSE TO PROPOSED REPORT.—The chief executive officers of the States, after reviewing and soliciting recommendations and comments on the proposed report of the Conference, shall submit to the Secretary, not later than 180 days after receiving such report, their views and findings on the recommendations of the Conference.

(c) FINAL REPORT.—Not later than 180 days after submission of the views and comments of the chief executive officers of the States, the Secretary shall—

(1) prepare a final report on the conference, which shall include—

(A) a statement of the policy and recommendations of the Conference;

(B) the views and comments of the chief executive officers of the States; and

(C) the recommendations of the Secretary, after taking into consideration the views and comments of such officers, for administrative and legislative action necessary to implement the recommendations of the Conference; and

(2) publish and transmit such report to the President and the chairman of the Committee on Education and Labor of the House of Representatives and chairman of the Committee on Labor and Human Resources of the Senate.

(42 U.S.C. 12375)

SEC. 987. DEFINITIONS.

For purposes of this subtitle—

(1) the term "Conference" means the 1993 White House Conference on Children, Youth, and Families; and

(2) the terms "child", "youth", and "young individual" means an individual who is less than 21 years of age.

(42 U.S.C. 12376)

SEC. 988. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary, for each of the fiscal years 1993 and 1994, to carry out this subtitle. Sums appropriated under this subsection shall remain available until the expiration of the 1-year period beginning on the date the Conference is adjourned. New spending authority or authority to enter into contracts as provided in this subtitle shall be effective only to the extent and in such amounts as are provided in advance in appropriations Acts.

(b) RETURN OF UNEXPENDED FUNDS.—Any funds remaining upon the expiration of the 1-year period referred to in subsection (a) shall be returned to the Treasury of the United States and credited as miscellaneous receipts.

(42 U.S.C. 12377)

STEWART B. McKINNEY HOMELESS ASSISTANCE ACT

[Public Law 100–77, July 22, 1987 (101 Stat. 532)]

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TITLE VII—EDUCATION, TRAINING, AND COMMUNITY SERVICES PROGRAMS

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[Subtitles D and E of of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11461 et seq.) was repealed by sec. 199(b) of Public Law 105–220 (112 Stat. 1059).]

[Subtitle F of of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11481 et seq.) was repealed by sec. 142 of Public Law 104–235.]

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HUMAN SERVICES REAUTHORIZATION ACT OF 1986

[Public Law 99–425, September 3, 1986 (100 Stat. 966)]

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TITLE IV—COMMUNITY SERVICES BLOCK GRANT PROGRAM

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SEC. 407. INTEREST RATES PAYABLE ON CERTAIN RURAL DEVELOPMENT LOANS; ASSIGNMENT OF LOAN CONTRACTS.

(a) MODIFICATION OF INTEREST RATES.—Notwithstanding any other provision of law—

(1) any outstanding loan made after December 31, 1982, by the Secretary of Health and Human Services; or

(2) any loan made after the date of the enactment of this Act;

with moneys from the Rural Development Loan Fund established by section 623(c)(1) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9812(c)(1)) or with funds available (before the date of enactment of the Coats Human Services Reauthorization Act of 1998) under section 681(a) of the Community Services Block Grant Act (42 U.S.C. 9910(a)) (as in effect before such date) to an intermediary borrower shall bear interest at a fixed rate equal to the rate of interest that was in effect on the date of issuance for loans made in 1980 with such moneys or such funds if the weighted average rate of interest for all loans made after December 31, 1982, by such intermediary borrower with such moneys or such funds does not exceed the sum of 6 percent and the rate of interest payable under this subsection by such intermediary borrower.

(b) ASSIGNMENT OF CERTAIN LOAN CONTRACTS.—Any contract for a loan made during the period beginning on December 31, 1982, and ending on the date of the enactment of this Act with—

(1) moneys from the Rural Development Loan Fund established by section 623(c)(1) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9812(c)(1)); or

(2) funds available (before the date of enactment of the Coats Human Services Reauthorization Act of 1998) under section 681(a) of the Community Services Block Grant Act (42 U.S.C. 9910(a)) (as in effect before such date);

to an intermediary borrower that is a county government may be assigned by such borrower to an entity to which such loan could have been made for the purpose for which such contract was made. Any entity to which such contract is so assigned shall be substituted as a party to such contract and shall be obligated to carry out such contract and the purpose for which such contract was made.

(c) TECHNICAL AMENDMENT.—Section 1323(b)(2) of the Food Security Act of 1985 (7 U.S.C. 1631(b)(2)) is amended—

(1) by striking out "authorized under" and inserting in lieu thereof "appropriated to, or repaid to";

(2) in subparagraph (A) by striking out "and" at the end thereof;

(3) in subparagraph (B) by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following new subparagraph:

"(C) notwithstanding paragraph (1), all funds other than funds to which subparagraph (A) applies shall be used by the Secretary to make loans—

"(i) to the entities;

"(ii) for the purposes; and

"(iii) subject to the terms and conditions;

specified in the first, second, and last sentences of section 623(a) of the Community Economic Development Act of 1981 (42 U.S.C. 9812(a)). For purposes of this subparagraph, any reference in such sentences to the Secretary shall be deemed to be a reference to the Secretary of Agriculture.".

(42 U.S.C. 9812a)

SEC. 408. DEMONSTRATION PARTNERSHIP AGREEMENTS ADDRESSING THE NEEDS OF THE POOR.

(a) GENERAL AUTHORITY.—(1) In order to stimulate the development of new approaches to provide for greater self-sufficiency of the poor, to test and evaluate such new approaches, to disseminate project results and evaluation findings so that such approaches can be replicated, and to strengthen the integration, coordination, and redirection of activities to promote maximum self-sufficiency among the poor, the Secretary may make grants from funds appropriated under subsection (e) to eligible entities for the development and implementation of new and innovative approaches to deal with particularly critical needs or problems of the poor which are common to a number of communities. Grants may be made only with respect to applications which—

(A) involve activities which can be incorporated into or be closely coordinated with eligible entities' ongoing programs;

(B) involve significant new combinations of resources or new and innovative approaches involving partnership agreements; or

(C) are structured in a way that will, within the limits of the type of assistance or activities contemplated, most fully and effectively promote the purposes of the Community Services Block Grant Act; and

(D) contain an assurance that the applicant for such grants will obtain an independent, methodologically sound evaluation of the effectiveness of the activities carried out with such grant and will submit such evaluation to the Secretary.

(2) No grant may be made under this section unless an application is submitted to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may require.

(3) Initial and subsequent grant awards may fully fund projects for periods of up to 3 years.

(b) FEDERAL SHARE; LIMITATIONS.—(1)(A) Subject to subparagraph (B), grants awarded pursuant to this section shall be used for new programs and shall not exceed 50 per centum of the cost of such new programs.

(B) After the first funding period for which an eligible entity receives a grant under this section to carry out a program, the amount of a subsequent grant made under this section to such entity to carry out such program may not exceed 80 percent of the amount of the grant previously received by such entity under this section to carry out such program.

(2) Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, or services.

(3) Not more than one grant in each fiscal year may be made to any eligible entity, and no grant may exceed $350,000. Not more than 2 grants may be made under this section to an eligible entity to carry out a particular program.

(4) No application may be approved for assistance under this section unless the Secretary is satisfied that—

(A) the activities to be carried out under the application will be in addition to, and not in substitution for, activities previously carried on without Federal assistance; and

(B) funds or other resources devoted to programs designed to meet the needs of the poor within the community, area, or State will not be diminished in order to provide the matching contributions required under this section.

(c) PROGRAMS DIRECTED TO SPECIAL POPULATIONS.—(1) In addition to the grant programs described in subsection (a), the Secretary may make grants to community action agencies for the purpose of enabling such agencies to demonstrate new approaches to dealing with the problems caused by entrenched, chronic unemployment and lack of economic opportunities for urban youth. Demonstrations shall include such activities as peer counseling, mentoring, development of job skills, assistance with social skills, community services, family literacy, parenting skills, opportunities for employment or entrepreneurship, and other services designed to assist such at-risk youth to continue their education, to secure meaningful employment, to perform community service, or to pursue other productive alternatives within the community.

(2) Such grants may be made only with respect to applications that—

(A) identify and describe the population to be served, the problems to be addressed, the overall approach and methods of outreach and recruitment to be used, and the services to be provided;

(B) describe how the approach to be used differs from other approaches used for the population to be served by the project;

(C) describe the objectives of the project and contain a plan for measuring progress toward meeting those objectives; and

(D) contain assurances that the grantee will report on the progress and results of the demonstration at such times and in such manner as the Secretary shall require.

(3) Notwithstanding subsection (b), such grants shall not exceed 80 percent of the cost of such programs.

(4) Such grants made under this subsection on a competitive basis shall be based on an annual competition determined by the Secretary. Grants made under this subsection shall not exceed $500,000.

(d) DISSEMINATION OF RESULTS.—As soon as practicable, but not later than 180 days after the end of the fiscal year in which a recipient of a grant under this section completes the expenditure of such grant, the Secretary shall prepare and make available to each State and each eligible entity a description of the program carried out with such grant, any relevant information developed and results achieved, and a summary of the evaluation of such program received under subsection (a)(1)(D) so as to provide a model of innovative programs for other eligible entities.

(e) REPLICATION OF PROGRAMS.—(1) The Secretary shall annually identify programs that receive grants under this section that demonstrate a significant potential for dealing with particularly critical needs or problems of the poor that exist in a number of communities.

(2) Not less than 10 percent, and not more than 25 percent, of the funds appropriated for each fiscal year to carry out this section shall be available to make grants under this section to replicate in additional geographic areas programs identified under paragraph (1).

(f) REPORT TO CONGRESS.—The Secretary shall submit annually, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report containing—

(1) a description of—

(A) programs for which grants under this section in the then most recently completed fiscal year; and

(B) the evaluations received under subsection (a)(1)(D) in such fiscal year; and

(2) a description of the methods used by the Secretary to comply with subsection (d);

(3) recommendations of the Secretary regarding the suitability of carrying out such programs with funds made available under other Federal laws; and

(4) a description of each program identified under subsection (d)(1)[1] or replicated under subsection (e)(2), and an identification of the geographical location where such program was carried out.

(g) DEFINITIONS.—As used in this section—

(1) the term "eligible entity" has the same meaning given such term by section 673(1) of the Community Services Block Grant Act (42 U.S.C. 9902(1)), except that such term includes an organization that serves migrant and seasonal farm workers and that receives a grant under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.) in the fiscal year pre-

[1] Error in amendment made by section 601(1)(B) of Public Law 101–501. Should strike "subsection (d)(1)" and insert "subsection (e)(1)".

ceding the fiscal year for which such organization requests a grant under this section; and

(2) the term "Secretary" means the Secretary of Health and Human Services.

(h) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $30,000,000 for fiscal year 1995, and such sums as may be necessary for fiscal years 1996, 1997, and 1998, to carry out this section.

(2) Of the amounts appropriated for this section, not less than 30 percent and not more than 40 percent shall be used to carry out the programs authorized under subsection (c).

(3) In addition to sums which are required to carry out the evaluation, reporting, and dissemination of results under subsections (a), (c), (d), and (f), the Secretary is authorized to reserve up to 2 percent of the amounts appropriated pursuant to subparagraphs (1) and (2) for administration of the program as well as for planning and technical assistance.

(42 U.S.C. 9925)

OLDER AMERICANS ACT AMENDMENTS OF 1987

[Public Law 100–175, November 29, 1987 (101 Stat. 926)]

TITLE II—WHITE HOUSE CONFERENCE ON AGING

SEC. 201. AUTHORIZATION OF THE CONFERENCE.

(a) AUTHORITY TO CALL CONFERENCE.—Not later than December 31, 2005, the President shall convene the White House Conference on Aging in order to fulfill the purpose set forth in subsection (c) and to make fundamental policy recommendations regarding programs that are important to older individuals and to the families and communities of such individuals.

(b) PLANNING AND DIRECTION.—The Conference described in subsection (a) shall be planned and conducted under the direction of the Secretary, in cooperation with the Assistant Secretary for Aging, the Director of the National Institute on Aging, the Administrator of the Health Care Financing Administration, the Social Security Administrator, and the heads of such other Federal agencies serving older individuals as are appropriate. Planning and conducting the Conference includes the assignment of personnel.

(c) PURPOSE.—The purpose of the Conference described in subsection (a) shall be to gather individuals representing the spectrum of thought and experience in the field of aging to—

(1) evaluate the manner in which the objectives of this Act can be met by using the resources and talents of older individuals, of families and communities of such individuals, and of individuals from the public and private sectors;

(2) evaluate the manner in which national policies that are related to economic security and health care are prepared so that such policies serve individuals born from 1946 to 1964 and later, as the individuals become older individuals, including an examination of the Social Security, Medicare, and Medicaid programs carried out under titles II, XVIII, and XIX of the Social Security Act (42 U.S.C. 401 et seq., 1395 et seq., and 1396 et seq.) in relation to providing services under this Act, and determine how well such policies respond to the needs of older individuals; and

(3) develop not more than 50 recommendations to guide the President, Congress, and Federal agencies in serving older individuals.

(d) CONFERENCE PARTICIPANTS AND DELEGATES.—

(1) PARTICIPANTS.—In order to carry out the purposes of this section, the Conference shall bring together—

(A) representatives of Federal, State, and local governments,

(B) professional and lay people who are working in the field of aging, and

(C) representatives of the general public, particularly older individuals.

(2) SELECTION OF DELEGATES.—The delegates shall be selected without regard to political affiliation or past partisan activity and shall, to the best of the appointing authority's ability, be representative of the spectrum of thought in the field of aging. Delegates shall include individuals who are professionals, individuals who are nonprofessionals, minority individuals, individuals from low-income families, representatives of Federal, State, and local governments, and individuals from rural areas. A majority of such delegates shall be age 55 or older.

(42 U.S.C. 3001 note)

SEC. 202. CONFERENCE ADMINISTRATION.

(a) ADMINISTRATION.—In administering this section, the Secretary shall—

(1) provide written notice to all members of the Policy Committee of each meeting, hearing, or working session of the Policy Committee not later than 48 hours before the occurrence of such meeting, hearing, or working session,

(2) request the cooperation and assistance of the heads of such other Federal departments and agencies as may be appropriate in the carrying out of this section,

(3) make available for public comment a proposed agenda, prepared by the Policy Committee, for the Conference which will reflect to the greatest extent possible the major issues facing older individuals consistent with the provisions of subsection (a),

(4) prepare and make available background materials for the use of delegates to the Conference which the Secretary deems necessary, and

(5) engage such additional personnel as may be necessary to carry out the provisions of this section without regard to provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) DUTIES.—The Secretary shall, in carrying out the Secretary's responsibilities and functions under this section, and as part of the White House Conference on Aging, ensure that—

(1) the agenda prepared under subsection (a)(3) for the Conference is published in the Federal Register not later than 30 days after such agenda is approved by the Policy Committee, and the Secretary may republish such agenda together with the recommendations of the Secretary regarding such agenda, and

(2) the personnel engaged under subsection (a)(5) shall be fairly balanced in terms of points of views represented and shall be appointed without regard to political affiliation or previous partisan activities,

(3) the recommendations of the Conference are not inappropriately influenced by any appointing authority or by any

special interest, but will instead be the result of the independent judgment of the Conference, and

(4) current and adequate statistical data, including decennial census data, and other information on the well-being of older individuals in the United States are readily available, in advance of the Conference, to the delegates of the Conference, together with such information as may be necessary to evaluate Federal programs and policies relating to aging. In carrying out this subparagraph, the Secretary is authorized to make grants to, and enter into cooperative agreements with, public agencies and nonprofit private organizations.

(c) GIFTS.—The Secretary may accept, on behalf of the United States, gifts (in cash or in kind, including voluntary and uncompensated services), which shall be available to carry out this title. Gifts of cash shall be available in addition to amounts appropriated to carry out this title. Gifts may be earmarked by the donor or the executive committee for a specific purpose.

(d) RECORDS.—The Secretary shall maintain records regarding—

(1) the sources, amounts, and uses of gifts accepted under subsection (c); and

(2) the identity of each person receiving assistance to carry out this title, and the amount of such assistance received by each such person.

(42 U.S.C. 3001 note)

SEC. 203. POLICY COMMITTEE; RELATED COMMITTEES.

(a) POLICY COMMITTEE.—

(1) ESTABLISHMENT.—There is established a Policy Committee comprised of 17 members to be selected, not later than 2 years prior to the date on which the Conference convenes, as follows:

(A) PRESIDENTIAL APPOINTEES.—Nine members shall be selected by the President and shall include—

(i) three members who are officers or employees of the United States; and

(ii) six members with experience in the field of aging, including providers and consumers of aging services.

(B) HOUSE APPOINTEES.—Two members shall be selected by the Speaker of the House of Representatives, after consultation with the Committee on Education and the Workforce and the Committee on Ways and Means of the House of Representatives, and two members shall be selected by the Minority Leader of the House of Representatives, after consultation with such committees.

(C) SENATE APPOINTEES.—Two members shall be selected by the Majority Leader of the Senate, after consultation with members of the Committee on Health, Education, Labor, and Pensions and the Special Committee on Aging of the Senate, and two members shall be selected by the Minority Leader of the Senate, after consultation with members of such committees.

(2) DUTIES OF THE POLICY COMMITTEE.—The Policy Committee shall initially meet at the call of the Secretary, but not

later than 30 days after the last member is selected under subsection (a). Subsequent meetings of the Policy Committee shall be held at the call of the chairperson of the Policy Committee. Through meetings, hearings, and working sessions, the Policy Committee shall—

(A) make recommendations to the Secretary to facilitate the timely convening of the Conference;

(B) formulate and approve a proposed agenda for the Conference not later than 90 days after the first meeting of the Policy Committee for the Secretary;

(C) make recommendations for participants and delegates of the Conference;

(D) establish the number of delegates to be selected under section 201(d)(2);

(E) establish an executive committee consisting of three to five members, with a majority of such members being age 55 or older, to work with Conference staff; and

(F) establish other committees as needed that have a majority of members who are age 55 or older.

(3) VOTING; CHAIRPERSON.—

(A) VOTING.—The Policy Committee shall act by the vote of a majority of the members present. A quorum of Committee members shall not be required to conduct Committee business.

(B) CHAIRPERSON.—The President shall select the chairperson from among the members of the Policy Committee. The chairperson may vote only to break a tie vote of the other members of the Policy Committee.

(b) ADVISORY AND OTHER COMMITTEES.—

(1) IN GENERAL.—The President shall establish an advisory committee to the Conference which shall include representation from the Federal Council on Aging and other public agencies and private nonprofit organizations as appropriate. The President shall consider for appointment to the advisory committee individuals recommended by the Policy Committee.

(2) OTHER COMMITTEES.—The Secretary may establish such other committees, including technical committees, as may be necessary to assist in the planning, conducting, and reviewing of the Conference.

(c) COMPOSITION OF COMMITTEES.—Each committee established under subsection (b) shall be composed of professionals and public members, and shall include individuals from low-income families and from minority groups. A majority of the public members of each such committee shall be 55 years of age or older, and individuals who are Native Americans.

(d) COMPENSATION.—Appointed members of any such committee (other than any officers or employees of the Federal Government), while attending conferences or meetings of the committee or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at a rate to be fixed by the Secretary, but not to exceed the daily equivalent of the maximum rate of pay payable under section 5376 of title 5, United States Code (including travel time). While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703

of such title for persons employed intermittently in Federal Government service.

(42 U.S.C. 3001 note)

SEC. 204. REPORT OF THE CONFERENCE.

(a) PRELIMINARY REPORT.—Not later than 100 days after the date on which the Conference adjourns, the Policy Committee shall publish and deliver to the chief executive officers of the States a preliminary report on the Conference. Comments on the preliminary report of the Conference shall be accepted by the Policy Committee.

(b) FINAL REPORT.—Not later than 6 months after the date on which the Conference adjourns, the Policy Committee shall publish and transmit to the President and to Congress recommendations resulting from the Conference and suggestions for any administrative action and legislation necessary to implement the recommendations contained within the report.

(42 U.S.C. 3001 note)

SEC. 205. DEFINITIONS.

For the purposes of this title—

(1) the term "area agency on aging" has the meaning given the term in section 102(17) of the Older Americans Act of 1965 (42 U.S.C. 3002(17)),

(2) the term "State agency on aging" means the State agency designated under section 305(a)(1) of the Act,

(3) the term "Secretary" means the Secretary of Health and Human Services,

(4) the term "Conference" means the White House Conference on Aging, and

(5) the term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands.

(42 U.S.C. 3001 note)

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

(A) such sums as may be necessary for the first fiscal year in which the Policy Committee plans the Conference and for the following fiscal year; and

(B) such sums as may be necessary for the fiscal year in which the Conference is held.

(2) CONTRACTS.—Authority to enter into contracts under this title shall be effective only to the extent, or in such amounts as are, provided in advance in appropriations Acts.

(b) AVAILABILITY OF FUNDS.—

(1) IN GENERAL.—Except as provided in paragraph (3), funds appropriated to carry out this title and funds received as gifts under section 202(c) shall remain available for obligation or expenditure until the expiration of the one-year period beginning on the date the Conference adjourns.

(2) UNOBLIGATED FUNDS.—Except as provided in paragraph (3), any such funds neither expended nor obligated before the expiration of the one-year period beginning on the date the Conference adjourns shall be available to carry out the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

(3) CONFERENCE NOT CONVENED.—If the Conference is not convened before December 31, 2005, such funds neither expended nor obligated before such date shall be available to carry out the Older Americans Act of 1965.

(42 U.S.C. 3001 note)

OLDER AMERICANS ACT AMENDMENTS OF 1992

[Public Law 102–375, September 30, 1992 (106 Stat. 1195)]

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TITLE II—ADMINISTRATION

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SEC. 212. STUDY ON BOARD AND CARE FACILITY QUALITY.

(a) ARRANGEMENT FOR STUDY COMMITTEE.—The Secretary of Health and Human Services shall enter into an arrangement, in accordance with subsection (d), to establish a study committee described in subsection (c) to conduct a study through the Institute of Medicine of the National Academy of Sciences on the quality of board and care facilities for older individuals (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)) and the disabled.

(b) SCOPE OF STUDY.—The study shall include—

(1) an examination of existing quality, health, and safety requirements for board and care facilities and the enforcement of such requirements for their adequacy and effectiveness, with special attention to their effectiveness in promoting good personal care;

(2) an examination of, and recommendations with respect to, the appropriate role of Federal, State, and local governments in assuring the health and safety of residents of board and care facilities; and

(3) specific recommendations to the Congress and the Secretary, by not later than 20 months after the date of the enactment of this Act, concerning the establishment of minimum national standards for the quality, health, and safety of residents of such facilities and the enforcement of such standards.

(c) COMPOSITION OF STUDY COMMITTEE.—The study committee shall be composed of members as appointed from among the following:

(1) NATIONAL ACADEMY OF SCIENCES.—The members of the National Academy of Sciences with experience in long-term care. The members so appointed shall include—

(A) physicians;

(B) experts on the administration of drugs to older individuals, and disabled individuals receiving long-term care services; and

(C) experts on the enforcement of life-safety codes in long-term care facilities.

(2) RESIDENTS.—Residents of board and care facilities (including privately owned board and care facilities), and rep-

resentatives of such residents or of organizations that advocate on behalf of such residents. Members so appointed shall include—

(A) residents of a nonprofit board and care facility; or

(B) individuals who represent—

(i) residents of nonprofit board and care facilities; or

(ii) organizations that advocate on behalf of residents of nonprofit board and care facilities.

(3) OPERATORS.—Operators of board and care facilities (including privately owned board and care facilities), and individuals who represent such operators or organizations that represent the interests of such operators. Members so appointed shall include—

(A) operators of a nonprofit board and care facility; or

(B) individuals who represent—

(i) operators of nonprofit board and care facilities; or

(ii) organizations that represent the interests of operators of nonprofit board and care facilities.

(4) OFFICERS.—

(A) STATE OFFICERS.—Elected and appointed State officers who have responsibility relating to the health and safety of residents of board and care facilities.

(B) REPRESENTATIVES.—Representatives of such officers or of organizations representing such officers.

(C) OTHER INDIVIDUALS.—Other individuals with relevant expertise.

(d) USE OF INSTITUTE OF MEDICINE.—The Secretary shall request the National Academy of Sciences, through the Institute of Medicine, to establish, appoint, and provide administrative support for the study committee under an arrangement under which the actual expenses incurred by the Academy in carrying out such functions will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such arrangement with the Academy.

(e) INVOLVEMENT OF OTHERS.—

(1) GOVERNMENT OFFICIALS.—The study committee shall conduct its work in a manner that provides for the consultation with Members of Congress or their representatives, officials of the Department of Health and Human Services, and officials of State and local governments who are not members of the study committee.

(2) EXPERTS.—The study committee may consult with any individual or organization with expertise relating to the issues involved in the activities of the study committee.

(f) REPORT.—Not later than 20 months after an arrangement is entered into under subsection (d), the study committee shall submit, to the Secretary, the Speaker of the House of Representatives, and the President pro tempore of the Senate, a report containing the results of the study referred to in subsection (a) and the recommendations made under subsection (b).

(g) BOARD AND CARE FACILITY DEFINED.—In this section, the term "board and care facility" means a facility described in section 1616(e) of the Social Security Act (42 U.S.C. 1372e(e)).

(h) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $1,500,000 for fiscal year 1992 and such sums as may be necessary for subsequent fiscal years.
(42 U.S.C. 3001 note)

SEC. 213. STUDY ON HOME CARE QUALITY.

(a) ESTABLISHMENT STUDY OF [1] COMMITTEE.—The Secretary of Health and Human Services shall enter into an arrangement, in accordance with subsection (d), to establish a study committee described in subsection (c) to conduct a study through the Institute of Medicine of the National Academy of Sciences on the quality of home care services for older individuals and disabled individuals.

(b) SCOPE OF STUDY.—The study shall include—

(1) an examination of existing quality, health and safety requirements for home care services and the enforcement of such requirements for their adequacy, effectiveness, and appropriateness;

(2) an examination of, and recommendations with respect to, the appropriate role of Federal, State, and local governments in ensuring the health and safety of patients and clients of home care services; and

(3) specific recommendations to the Congress and the Secretary, not later than 20 months after the date of the enactment of this Act, concerning the establishment of minimum national standards for the quality, health, and safety of patients and clients of such services and the enforcement of such standards.

(c) COMPOSITION OF STUDY COMMITTEE.—The study committee shall be composed of members appointed from among—

(1) individuals with experience in long-term care, including nonmedical home care services;

(2) patients and clients of home care services (including privately provided home care services and services funded under the Older Americans Act of 1965) or individuals who represent such patients and clients or organizations that advocate on behalf of such patients and clients;

(3) providers of home care services (including privately provided home care services and services funded under the Older Americans Act of 1965) or individuals who represent such providers or organizations that advocate on behalf of such providers;

(4) elected and appointed State officers who have responsibility relating to the health and safety of patients and clients of home care services, or representatives of such officers or of organizations representing such officers; and

(5) other individuals with relevant expertise.

(d) USE OF INSTITUTE OF MEDICINE.—The Secretary shall request the National Academy of Sciences, through the Institute of Medicine, to establish, appoint, and provide administrative support for the committee under an arrangement under which the actual expenses incurred by the Academy in carrying out such functions will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such arrangement with the Academy.

[1] So in Original. Should strike "STUDY OF" and insert "OF STUDY".

(e) INVOLVEMENT OF OTHERS.—

(1) MEMBERS AND OFFICIALS.—The committee shall conduct its work in a manner that provides for consultation with Members of Congress or their representatives, officials of the Department of Health and Human Services, and officials of State and local governments who are not members of the committee.

(2) INDIVIDUAL OR ORGANIZATION WITH EXPERTISE.—The committee may consult with any individual or organization with expertise relating to the issues involved in the activities of the committee.

(f) REPORT.—Not later than 20 months after an arrangement is entered into under subsection (d), the committee shall submit, to the Secretary, the Speaker of the House of Representatives, and the President pro tempore of the Senate, a report containing the results of the study referred to in subsection (a).

(g) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $1,000,000 for fiscal year 1992 and such sums as may be necessary for subsequent fiscal years.

(42 U.S.C. 3001 note)

ANTI-DRUG ABUSE ACT OF 1988

(Public Law 100–690; 102 Stat. 4181 et seq.)

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TITLE III—DRUG ABUSE EDUCATION AND PREVENTION

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Subtitle B—Drug Abuse Education and Prevention

CHAPTER 1—DRUG EDUCATION AND PREVENTION RELATING TO YOUTH GANGS

SEC. 3501. ESTABLISHMENT OF DRUG ABUSE EDUCATION AND PREVENTION PROGRAM RELATING TO YOUTH GANGS.

The Secretary of Health and Human Services, through the Administration on Children, Youth, and Families, shall make grants to, and enter into contracts with, public and nonprofit private agencies (including agencies described in paragraph (7)(A) acting jointly), organizations (including community based organizations with demonstrated experience in this field), institutions, and individuals, to carry out projects and activities—

(1) to prevent and to reduce the participation of youth in the activities of gangs that engage in illicit drug-related activities,

(2) to promote the involvement of youth in lawful activities in communities in which such gangs commit drug-related crimes,

(3) to prevent the abuse of drugs by youth, to educate youth about such abuse, and to refer for treatment and rehabilitation members of such gangs who abuse drugs,

(4) to support activities of local police departments and other local law enforcement agencies to conduct educational outreach activities in communities in which gangs commit drug-related crimes,

(5) to inform gang members and their families of the availability of treatment and rehabilitation services for drug abuse,

(6) to facilitate Federal and State cooperation with local school officials to assist youth who are likely to participate in gangs that commit drug-related crimes,

(7) to facilitate coordination and cooperation among—

(A) local education, juvenile justice, employment and social service agencies, and

(B) drug abuse referral, treatment, and rehabilitation programs,

for the purpose of preventing or reducing the participation of youth in activities of gangs that commit drug-related crimes, and

(8) to provide technical assistance to eligible organizations in planning and implementing drug abuse education, prevention, rehabilitation, and referral programs for youth who are members of gangs that commit drug-related crimes.

(42 U.S.C. 11801)

SEC. 3502. APPLICATION FOR GRANTS AND CONTRACTS.

(a) SUBMISSION OF APPLICATIONS.—Any agency, organization, institution, or individual desiring to receive a grant, or to enter into a contract, under section 3501 shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require by rule.

(b) CONTENTS OF APPLICATION.—Each application for assistance under this chapter shall—

(1) set forth a project or activity for carrying out one or more of the purposes specified in section 3501 and specifically identify each such purpose such project or activity is designed to carry out,

(2) provide that such project or activity shall be administered by or under the supervision of the applicant,

(3) provide for the proper and efficient administration of such project or activity,

(4) provide for regular evaluation of the operation of such project or activity,

(5) provide that regular reports on such project or activity shall be submitted to the Secretary, and

(6) provide such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this chapter.

(42 U.S.C. 11802)

SEC. 3503. APPROVAL OF APPLICATIONS.

In selecting among applications submitted under section 3502(a), the Secretary shall give priority to applicants who propose to carry out projects and activities—

(1) for the purposes specified in section 3501 in geographical areas in which frequent and severe drug-related crimes are committed by gangs whose membership is composed primarily of youth, and

(2) that the applicant demonstrates have the broad support of community based organizations in such geographical areas.

(42 U.S.C. 11803)

SEC. 3504. COORDINATION WITH JUVENILE JUSTICE PROGRAMS.

The Secretary shall coordinate the program established by section 3501 with the programs and activities carried out under the

Juvenile Justice and Delinquency Prevention Act of 1974 and with the programs and activities of the Attorney General, to ensure that all such programs and activities are complementary and not duplicative.

(42 U.S.C. 11804)

SEC. 3505. AUTHORIZATION OF APPROPRIATIONS.

To carry out this chapter, there are authorized to be appropriated $16,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994.

(42 U.S.C. 11805)

SEC. 3506. ANNUAL REPORT.

Not later than 180 days after the end of each fiscal year, the Secretary shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report describing—

(1) the types of projects and activities for which grants and contracts were made under this chapter for such fiscal year,

(2) the number and characteristics of the youth and families served by such projects and activities, and

(3) each of such projects and activities the Secretary considers to be exemplary.

(42 U.S.C. 11806)

CHAPTER 2—PROGRAM FOR RUNAWAY AND HOMELESS YOUTH

SEC. 3511. ESTABLISHMENT OF PROGRAM.

(a) The Secretary shall make grants to public and private nonprofit agencies, organizations, and institutions to carry out research, demonstration, and services projects designed—

(1) to provide individual, family, and group counseling to runaway youth and their families and to homeless youth for the purpose of preventing or reducing the illicit use of drugs by such youth,

(2) to develop and support peer counseling programs for runaway and homeless youth related to the illicit use of drugs,

(3) to develop and support community education activities related to illicit use of drugs by runaway and homeless youth, including outreach to youth individually,

(4) to provide to runaway and homeless youth in rural areas assistance (including the development of community support groups) related to the illicit use of drugs,

(5) to provide to individuals involved in providing services to runaway and homeless youth, information and training regarding issues related to the illicit use of drugs by runaway and homeless youth,

(6) to support research on the illicit drug use by runaway and homeless youth, and the effects on such youth of drug abuse by family members, and any correlation between such use and attempts at suicide, and

(7) to improve the availability and coordination of local services related to drug abuse, for runaway and homeless youth.

(b) PRIORITY.—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to agencies and organizations that have experience in providing services to runaway and homeless youth.

(c) LIMITATION.—Grants under this section may be made for a period not to exceed 3 years.

(42 U.S.C. 11821)

SEC. 3512. ANNUAL REPORT.

Not later than 180 days after the end of a fiscal year for which funds are appropriated to carry out this chapter, the Secretary shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report that contains—

(1) a description of the types of projects and activities for which grants were made under this chapter for such fiscal year,

(2) a description of the number and characteristics of the youth and families served by such projects and activities, and

(3) a description of exemplary projects and activities for which grants were made under this chapter for such fiscal year.

(42 U.S.C. 11822)

SEC. 3513. AUTHORIZATION OF APPROPRIATIONS.

To carry out this chapter, there are authorized to be appropriated $16,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993 and 1994.

(42 U.S.C. 11823)

SEC. 3514. APPLICATIONS.

(a) SUBMISSION OF APPLICATION.—Any State, unit of local government (or combination of units of local government), agency, organization, institution, or individual desiring to receive a grant, or enter into a contract, under this chapter shall submit an application at such time, in such manner, and containing or accompanied by such information as may be prescribed by the Federal officer who is authorized to make such grant or enter into such contract (hereinafter in this chapter referred to as the "appropriate Federal officer").

(b) CONTENTS OF APPLICATION.—In accordance with guidelines established by the appropriate Federal officer, each application for assistance under this chapter shall—

(1) set forth a project or activity for carrying out one or more of the purposes for which such grant or contract is authorized to be made and expressly identify each such purpose such project or activity is designed to carry out,

(2) provide that such project or activity shall be administered by or under the supervision of the applicant,

(3) provide for the proper and efficient administration of such project or activity,

(4) provide for regular evaluation of such project or activity,

(5) provide that regular reports on such project or activity shall be sent to the appropriate Federal officer, and

(6) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this chapter.

(42 U.S.C. 11824)

SEC. 3515. REVIEW OF APPLICATIONS.

(a) CONSIDERATION OF FACTORS.—In reviewing applications submitted under this chapter, the appropriate Federal officer shall consider—

(1) the relative cost and effectiveness of the proposed project or activity in carrying out purposes for which the requested grant or contract is authorized to be made,

(2) the extent to which such project or activity will incorporate new or innovative techniques,

(3) the increase in capacity of the State or the public or nonprofit private agency, organization, institution, or individual involved to provide services to address the illicit use of drugs by runaway and homeless youth,

(4) the extent to which such project or activity serves communities which have high rates of illicit drug use by juveniles (including runaway and homeless youth),

(5) the extent to which such project or activity will provide services in geographical areas where similar services are unavailable or in short supply, and

(6) the extent to which such project or activity will increase the level of services, or coordinate other services, in the community available to eligible youth.

(b) COMPETITIVE PROCESS.—(1) Applications submitted under this chapter shall be selected for approval through a competitive process to be established by rule by the appropriate Federal officer. As part of such a process, such officer shall publish a notice in the Federal Register—

(A) announcing the availability of funds to carry out this part,

(B) stating the general criteria applicable to the selection of applicants to receive such funds, and

(C) describing the procedures applicable to submitting and reviewing applications for such funds.

(2) As part of such process, each application referred to in subsection (a) shall be subject to peer review by individuals (excluding officers and employees of the Department of Justice and the Department of Health and Human Services) who have expertise in the subject matter related to the project or activity proposed in such application.

(c) EXPEDITED REVIEW.—The appropriate Federal officer shall expedite the consideration of an application referred to in subsection (a) if the applicant demonstrates, to the satisfaction of the [1] such officer, that the failure to expedite such consideration would prevent the effective implementation of the project or activity set forth in such application.

(42 U.S.C. 11825)

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Subtitle C—Miscellaneous

SEC. 3601. DEFINITIONS.

Unless otherwise defined by an Act amended by this title, for purposes of this title and the amendments made by this title—

(1) the term "community based" has the meaning given it in section 103(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(1)),

(2) the term "controlled substance" has the meaning given it in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)),

(3) the term "controlled substance analogue" has the meaning given it in section 102(32) of the Controlled Substances Act (21 U.S.C. 802(32)),

(4) the term "drug" means—

(A) a beverage containing alcohol,

(B) a controlled substance, or

(C) a controlled substance analogue,

(5) the term "Director" means the Chief Executive Officer of the Corporation for National and Community Service,

(6) the term "illicit" means unlawful or injurious,

(7) the term "institution of higher education" has the meaning given it in section 101 of the Higher Education Act of 1965,

(8) the term "public agency" has the meaning given it in section 103(11) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(11)),

(9) the term "Secretary" means—

(A) the Secretary of Education for purposes of subtitle A (other than section 3201),

(B) the Secretary of Agriculture for purposes of the amendments made by section 3201, and

(C) the Secretary of Health and Human Services for purposes of subtitle B,

(10) the term "State" has the meaning given it in section 103(7) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(7)),

(11) the term "treatment" has the meaning given it in section 103(15) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(15)), and

[1] Error in amendment made by section 1001(b)(2) of Pub. L. 101–204. Should strike "the".

(12) the term "unit of general local government" has the meaning given it in section 103(8) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(8)).

(42 U.S.C. 11851)

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TITLE VII—DEATH PENALTY AND OTHER CRIMINAL AND LAW ENFORCEMENT MATTERS

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Subtitle F—Juvenile Justice and Delinquency Prevention

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CHAPTER 4—MISCELLANEOUS

SEC. 7295. INVESTIGATION AND REPORT BY THE COMPTROLLER GENERAL.

(a) INVESTIGATION.—Not later than 180 days after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Comptroller General of the United States shall begin to conduct an investigation of the extent to which—

(1) valid court orders, and

(2) court orders other than valid court orders,

are used in the 5-year period ending on December 31, 1988, to place juveniles in secure detention facilities, in secure correctional facilities, and in jails and lockups for adults.

(b) REPORT.—(1) Not later than 3 years after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Comptroller General shall submit a report to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate containing a description, and a summary of the results of the investigation conducted under subsection (a).

(2) In such report, the Comptroller shall specify separately with respect to secure detention facilities, secure correctional facilities, and jails and lockups for adults—

(A) the frequency with which juveniles were confined,

(B) the length of confinement of juveniles, and

(C) the types of conduct of juveniles for which confinement was imposed,

as a result of the enforcement of court orders of the 2 types described in paragraphs (1) and (2) of subsection (a).

(c) DEFINITIONS.—For purposes of this section—

(1) the term "juvenile" means an individual who is less than 18 years of age,

(2) the term "secure correctional facility" has the meaning given it in section 103(13) of the Juvenile Justice and Delinquency Prevention Act of 1974 (41 U.S.C. 5603(13)),

(3) the term "secure detention facility" has the meaning given it in section 103(12) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(12)), and

(4) the term "valid court order" has the meaning given it in section 103(16) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(16)).

(42 U.S.C. 5617 note)

THE CRIME CONTROL ACT OF 1990

(Public Law 101–647, Approved November 29, 1990)

* * * * * * *

TITLE II—VICTIMS OF CHILD ABUSE ACT OF 1990

SEC. 201. SHORT TITLE.

This title may be cited as the "Victims of Child Abuse Act of 1990".

(42 U.S.C. 13001 note)

Subtitle A—Improving Investigation and Prosecution of Child Abuse Cases

SEC. 211. FINDINGS.

The Congress finds that—

(1) over 2,000,000 reports of suspected child abuse and neglect are made each year, and drug abuse is associated with a significant portion of these;

(2) the investigation and prosecution of child abuse cases is extremely complex, involving numerous agencies and dozens of personnel;

(3) traditionally, community agencies and professionals have different roles in the prevention, investigation, and intervention process;

(4) in such cases, too often the system does not pay sufficient attention to the needs and welfare of the child victim, aggravating the trauma that the child victim has already experienced;

(5) there is a national need to enhance coordination among community agencies and professionals involved in the intervention system;

(6) multidisciplinary child abuse investigation and prosecution programs have been developed that increase the reporting of child abuse cases, reduce the trauma to the child victim, and increase the successful prosecution of child abuse offenders; and

(7) such programs have proven effective, and with targeted Federal assistance, could be duplicated in many jurisdictions throughout the country.

(42 U.S.C. 13001)

SEC. 212. DEFINITIONS.

For purposes of this subtitle—

(1) the term "Administrator" means the agency head designated under section 201(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(b));

(2) the term "applicant" means a child protective service, law enforcement, legal, medical and mental health agency or other agency that responds to child abuse cases;

(3) the term "board" means the Children's Advocacy Advisory Board established under section 213(e);

(4) the term "census region" means 1 of the 4 census regions (northeast, south, midwest, and west) that are designated as census regions by the Bureau of the Census as of the date of enactment of this section;

(5) the term "child abuse" means physical or sexual abuse or neglect of a child;

(6) the term "Director" means the Director of the National Center on Child Abuse and Neglect;

(7) the term "multidisciplinary response to child abuse" means a response to child abuse that is based on mutually agreed upon procedures among the community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that best meets the needs of child victims and their nonoffending family members;

(8) the term "nonoffending family member" means a member of the family of a victim of child abuse other than a member who has been convicted or accused of committing an act of child abuse; and

(9) the term "regional children's advocacy program" means the children's advocacy program established under section 213(a).

(42 U.S.C. 13001a)

SEC. 213. REGIONAL CHILDREN'S ADVOCACY CENTERS.

(a) ESTABLISHMENT OF REGIONAL CHILDREN'S ADVOCACY PROGRAM.—The Administrator, in coordination with the Director and with the Director of the Office of Victims of Crime, shall establish a children's advocacy program to—

(1) focus attention on child victims by assisting communities in developing child-focused, community-oriented, facility-based programs designed to improve the resources available to children and families;

(2) provide support for nonoffending family members;

(3) enhance coordination among community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that respond to child abuse cases; and

(4) train physicians and other health care and mental health care professionals in the multidisciplinary approach to child abuse so that trained medical personnel will be available to provide medical support to community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that respond to child abuse cases.

(b) ACTIVITIES OF THE REGIONAL CHILDREN'S ADVOCACY PROGRAM.—

(1) ADMINISTRATOR.—The Administrator, in coordination with the Director, shall—

(A) establish regional children's advocacy program centers;

(B) fund existing regional centers with expertise in the prevention, judicial handling, and treatment of child abuse and neglect; and

(C) fund the establishment of freestanding facilities in multidisciplinary programs within communities that have yet to establish such facilities,

for the purpose of enabling grant recipients to provide information, services, and technical assistance to aid communities in establishing multidisciplinary programs that respond to child abuse.

(2) GRANT RECIPIENTS.—A grant recipient under this section shall—

(A) assist communities—

(i) in developing a comprehensive, multidisciplinary response to child abuse that is designed to meet the needs of child victims and their families;

(ii) in establishing a freestanding facility where interviews of and services for abused children can be provided;

(iii) in preventing or reducing trauma to children caused by multiple contacts with community professionals;

(iv) in providing families with needed services and assisting them in regaining maximum functioning;

(v) in maintaining open communication and case coordination among community professionals and agencies involved in child protection efforts;

(vi) in coordinating and tracking investigative, preventive, prosecutorial, and treatment efforts;

(vii) in obtaining information useful for criminal and civil proceedings;

(viii) in holding offenders accountable through improved prosecution of child abuse cases;

(ix) in enhancing professional skills necessary to effectively respond to cases of child abuse through training; and

(x) in enhancing community understanding of child abuse; and

(B) provide training and technical assistance to local children's advocacy centers in its census region that are grant recipients under section 214.

(c) OPERATION OF THE REGIONAL CHILDREN'S ADVOCACY PROGRAM.—

(1) SOLICITATION OF PROPOSALS.—Not later than 1 year after the date of enactment of this section, the Administrator shall solicit proposals for assistance under this section.

(2) MINIMUM QUALIFICATIONS.—In order for a proposal to be selected, the Administrator may require an applicant to have in existence, at the time the proposal is submitted, 1 or more of the following:

(A) A proven record in conducting activities of the kinds described in subsection (c).

(B) A facility where children who are victims of sexual or physical abuse and their nonoffending family members can go for the purpose of evaluation, intervention, evidence gathering, and counseling.

(C) Multidisciplinary staff experienced in providing remedial counseling to children and families.

(D) Experience in serving as a center for training and education and as a resource facility.

(E) National expertise in providing technical assistance to communities with respect to the judicial handling of child abuse and neglect.

(3) PROPOSAL REQUIREMENTS.—

(A) IN GENERAL.—A proposal submitted in response to the solicitation under paragraph (1) shall—

(i) include a single or multiyear management plan that outlines how the applicant will provide information, services, and technical assistance to communities so that communities can establish multidisciplinary programs that respond to child abuse;

(ii) demonstrate the ability of the applicant to operate successfully a multidisciplinary child abuse program or provide training to allow others to do so; and

(iii) state the annual cost of the proposal and a breakdown of those costs.

(B) CONTENT OF MANAGEMENT PLAN.—A management plan described in paragraph (3)(A) shall—

(i) outline the basic activities expected to be performed;

(ii) describe the entities that will conduct the basic activities;

(iii) establish the period of time over which the basic activities will take place; and

(iv) define the overall program management and direction by—

(I) identifying managerial, organizational, and administrative procedures and responsibilities;

(II) demonstrating how implementation and monitoring of the progress of the children's advocacy program after receipt of funding will be achieved; and

(III) providing sufficient rationale to support the costs of the plan.

(4) SELECTION OF PROPOSALS.—

(A) COMPETITIVE BASIS.—Proposals shall be selected under this section on a competitive basis.

(B) CRITERIA.—The Administrator, in coordination with the Director, shall select proposals for funding that—

(i) best result in developing and establishing multidisciplinary programs that respond to child abuse by assisting, training, and teaching community agencies and professionals called upon to respond to child abuse cases;

(ii) assist in resolving problems that may occur during the development, operation, and implementation of a multidisciplinary program that responds to child abuse; and [1]

(iii) carry out the objectives developed by the Board under subsection (e)(2)(A);

(C) [1] to the greatest extent possible and subject to available appropriations, ensure that at least 1 applicant is selected from each of the 4 census regions of the country; and

(D) [1] otherwise best carry out the purposes of this section.

(5) FUNDING OF PROGRAM.—From amounts made available in separate appropriation Acts, the Administrator shall provide to each grant recipient the financial and technical assistance and other incentives that are necessary and appropriate to carry out this section.

(6) COORDINATION OF EFFORT.—In order to carry out activities that are in the best interests of abused and neglected children, a grant recipient shall consult with other grant recipients on a regular basis to exchange ideas, share information, and review children's advocacy program activities.

(d) REVIEW.—

(1) EVALUATION OF REGIONAL CHILDREN'S ADVOCACY PROGRAM ACTIVITIES.—The Administrator, in coordination with the Director, shall regularly monitor and evaluate the activities of grant recipients and shall determine whether each grant recipient has complied with the original proposal and any modifications.

(2) ANNUAL REPORT.—A grant recipient shall provide an annual report to the Administrator and the Director that—

(A) describes the progress made in satisfying the purpose of the children's advocacy program; and

(B) states whether changes are needed and are being made to carry out the purpose of the children's advocacy program.

(3) DISCONTINUATION OF FUNDING.—

(A) FAILURE TO IMPLEMENT PROGRAM ACTIVITIES.—If a grant recipient under this section substantially fails in the implementation of the program activities, the Administrator shall not discontinue funding until reasonable notice and an opportunity for reconsideration is given.

(B) SOLICITATION OF NEW PROPOSALS.—Upon discontinuation of funding of a grant recipient under this section, the Administrator shall solicit new proposals in accordance with subsection (c).

(e) CHILDREN'S ADVOCACY ADVISORY BOARD.—

(1) ESTABLISHMENT OF BOARD.—

(A) IN GENERAL.—Not later than 120 days after the date of enactment of this section, the Administrator and the Director, after consulting with representatives of community agencies that respond to child abuse cases, shall

[1] Error in amendment made by section 6(b) of Public Law 102–586. Should amend clause (ii) to strike "and" at the end. Should indent left margin of subparagraphs (C) and (D) two ems to the right and redesignate such subparagraphs as clauses (iv) and (v), respectively.

establish a children's advocacy advisory board to provide guidance and oversight in implementing the selection criteria and operation of the regional children's advocacy program.

(B) MEMBERSHIP.—(i) The board—

(I) shall be composed of 12 members who are selected by the Administrator, in coordination with the Director, a majority of whom shall be individuals experienced in the child abuse investigation, prosecution, prevention, and intervention systems;

(II) shall include at least 1 member from each of the 4 census regions; and

(III) shall have members appointed for a term not to exceed 3 years.

(ii) Members of the Board [1] may be reappointed for successive terms.

(2) REVIEW AND RECOMMENDATIONS.—

(A) OBJECTIVES.—Not later than 180 days after the date of enactment of this section and annually thereafter, the Board [1] shall develop and submit to the Administrator and the Director objectives for the implementation of the children's advocacy program activities described in subsection (b).

(B) REVIEW.—The board shall annually—

(i) review the solicitation and selection of children's advocacy program proposals and make recommendations concerning how each such activity can be altered so as to better achieve the purposes of this section; and

(ii) review the program activities and management plan of each grant recipient and report its findings and recommendations to the Administrator and the Director.

(3) RULES AND REGULATIONS.—The Board [1] shall promulgate such rules and regulations as it deems necessary to carry out its duties under this section.

(f) REPORTING.—The Attorney General and the Secretary of Health and Human Services shall submit to Congress, by March 1 of each year, a detailed review of the progress of the regional children's advocacy program activities.

(42 U.S.C. 13001b)

SEC. 214. LOCAL CHILDREN'S ADVOCACY CENTERS.

(a) IN GENERAL.—The Administrator, in coordination with the Director and with the Director of the Office of Victims of Crime, shall make grants to develop and implement multidisciplinary child abuse investigation and prosecution programs.

(b) GRANT CRITERIA.—(1) The Director shall establish the criteria to be used in evaluating applications for grants under this section consistent with sections 299B and 299E of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.).

[1] Error in amendment made by section 6(b) of Public Law 102–586. Should strike "Board" and insert "board".

(2) In general, the grant criteria established pursuant to paragraph (1) may require that a program include any of the following elements:

(A) A written agreement between local law enforcement, social service, health, and other related agencies to coordinate child abuse investigation, prosecution, treatment, and counseling services.

(B) An appropriate site for referring, interviewing, treating, and counseling child victims of sexual and serious physical abuse and neglect and nonoffending family members (referred to as the "counseling center").

(C) Referral of all sexual and serious physical abuse and neglect cases to the counseling center not later than 24 hours after notification of an incident of abuse.

(D) Joint initial investigative interviews of child victims by personnel from law enforcement, health, and social service agencies.

(E) A requirement that, to the extent practicable, the same agency representative who conducts an initial interview conduct all subsequent interviews.

(F) A requirement that, to the extent practicable, all interviews and meetings with a child victim occur at the counseling center.

(G) Coordination of each step of the investigation process to minimize the number of interviews that a child victim must attend.

(H) Designation of a director for the multidisciplinary program.

(I) Assignment of a volunteer or staff advocate to each child in order to assist the child and, when appropriate, the child's family, throughout each step of judicial proceedings.

(J) Such other criteria as the Director shall establish by regulation.

(c) DISTRIBUTION OF GRANTS.—In awarding grants under this section, the Director shall ensure that grants are distributed to both large and small States and to rural, suburban, and urban jurisdictions.

(d) CONSULTATION WITH REGIONAL CHILDREN'S ADVOCACY CENTERS.—A grant recipient under this section shall consult from time to time with regional children's advocacy centers in its census region that are grant recipients under section 213.

(42 U.S.C. 13002)

SEC. 214A. GRANTS FOR SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.

(a) IN GENERAL.—The Administrator shall make grants to national organizations to provide technical assistance and training to attorneys and others instrumental to the criminal prosecution of child abuse cases in State or Federal courts, for the purpose of improving the quality of criminal prosecution of such cases.

(b) GRANTEE ORGANIZATIONS.—An organization to which a grant is made pursuant to subsection (a) shall be one that has, or is affiliated with one that has, broad membership among attorneys who prosecute criminal cases in State courts and has demonstrated

experience in providing training and technical assistance for prosecutors.

(c) GRANT CRITERIA.—

(1) The Administrator shall establish the criteria to be used for evaluating applications for grants under this section, consistent with sections 299B and 299E of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5665 et seq.).

(2) The grant criteria established pursuant to paragraph (1) shall require that a program provide training and technical assistance that includes information regarding improved child interview techniques, thorough investigative methods, interagency coordination and effective presentation of evidence in court, including the use of alternative courtroom procedures described in this title.

(42 U.S.C. 13003)

SEC. 214B. AUTHORIZATION OF APPROPRIATIONS.

(a) SECTIONS 213 AND 214.—There are authorized to be appropriated to carry out sections 213 and 214—

(1) $15,000,000 for fiscal year 1993; and

(2) such sums as are necessary for fiscal years 1994, 1995, 1996, and each of the fiscal years 1997 through 2000.

(b) SECTION 214A.—There are authorized to be appropriated to carry out section 214A—

(1) $5,000,000 for fiscal year 1993; and

(2) such sums as are necessary for fiscal years 1994, 1995, 1996, and each of the fiscal years 1997 through 2000.

(42 U.S.C. 13004)

Subtitle B—Court-Appointed Special Advocate Program

SEC. 215. FINDINGS.

The Congress finds that—

(1) the National Court-Appointed Special Advocate provides training and technical assistance to a network of 13,000 volunteers in 377 programs operating in 47 States; and

(2) in 1988, these volunteers represented 40,000 children, representing approximately 15 percent of the estimated 270,000 cases of child abuse and neglect in juvenile and family courts.

(42 U.S.C. 13011)

SEC. 216. PURPOSE.

The purpose of this subtitle is to ensure that by January 1, 1995, a court-appointed special advocate shall be available to every victim of child abuse or neglect in the United States that needs such an advocate.

(42 U.S.C. 13012)

SEC. 217. STRENGTHENING OF THE COURT-APPOINTED SPECIAL ADVOCATE PROGRAM.

(a) IN GENERAL.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention shall make grants to expand the court-appointed special advocate program.

(b) GRANTEE ORGANIZATIONS.—

(1) An organization to which a grant is made pursuant to subsection (a) shall be a national organization that has broad membership among court-appointed special advocates and has demonstrated experience in grant administration of court-appointed special advocate programs and in providing training and technical assistance to court-appointed special advocate program; or (2) may be a local public or not-for-profit agency that has demonstrated the willingness to initiate or expand a court-appointed special advocate program.

(2) An organization described in paragraph (1)(a) that receives a grant may be authorized to make subgrants and enter into contracts with public and not-for-profit agencies to initiate and to expand the court-appointed special advocate program. Should a grant be made to a national organization for this purpose, the Administrator shall specify an amount not exceeding 5 percent that can be used for administrative purposes by the national organization.

(c) GRANT CRITERIA.—(1) The Administrator shall establish criteria to be used in evaluating applications for grants under this section, consistent with sections 299B and 299E of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.).

(2) In general, the grant criteria established pursuant to paragraph (1) shall require that a court-appointed special advocate program provide screening, training, and supervision of court-appointed special advocates in accordance with standards developed by the National Court-Appointed Special Advocate Association. Such criteria may include the requirements that—

(A) a court-appointed special advocate association program have a mission and purpose in keeping with the mission and purpose of the National Court-Appointed Special Advocate Association and that it abide by the National Court-Appointed Special Advocate Association Code of Ethics;

(B) a court-appointed special advocate association program operate with access to legal counsel;

(C) the management and operation of a court-appointed special advocate program assure adequate supervision of court-appointed special advocate volunteers;

(D) a court-appointed special advocate program keep written records on the operation of the program in general and on each applicant, volunteer, and case;

(E) a court-appointed special advocate program have written management and personnel policies and procedures, screening requirements, and training curriculum;

(F) a court-appointed special advocate program not accept volunteers who have been convicted of, have charges pending for, or have in the past been charged with, a felony or misdemeanor involving a sex offense, violent act, child abuse or neglect, or related acts that would pose risks to children or to the court-appointed special advocate program's credibility;

(G) a court-appointed special advocate program have an established procedure to allow the immediate reporting to a court or appropriate agency of a situation in which a court-appointed

special advocate volunteer has reason to believe that a child is in imminent danger;

(H) a court-appointed special advocate volunteer be an individual who has been screened and trained by a recognized court-appointed special advocate program and appointed by the court to advocate for children who come into the court system primarily as a result of abuse or neglect; and

(I) a court-appointed special advocate volunteer serve the function of reviewing records, facilitating prompt, thorough review of cases, and interviewing appropriate parties in order to make recommendations on what would be in the best interests of the child.

(3) In awarding grants under this section, the Administrator shall ensure that grants are distributed to localities that have no existing court-appointed special advocate program and to programs in need of expansion.

(42 U.S.C. 13013)

SEC. 218. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There is authorized to be appropriated to carry out this subtitle $12,000,000 for each of fiscal years 2001 through 2005.

(b) LIMITATION.—No funds are authorized to be appropriated for a fiscal year to carry out this subtitle unless the aggregate amount appropriated to carry out title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) for such fiscal year is not less than the aggregate amount appropriated to carry out such title for the preceding fiscal year.

(42 U.S.C. 13014)

Subtitle C—Child Abuse Training Programs for Judicial Personnel and Practitioners

SEC. 221. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) a large number of juvenile and family courts are inundated with increasing numbers of cases due to increased reports of abuse and neglect, increasing drug-related maltreatment, and insufficient court resources;

(2) the amendments made to the Social Security Act by the Adoption Assistance and Child Welfare Act of 1980 make substantial demands on the courts handling abuse and neglect cases, but provide no assistance to the courts to meet those demands;

(3) the Adoption and Child Welfare Act of 1980 requires courts to—

(A) determine whether the agency made reasonable efforts to prevent foster care placement;

(B) approve voluntary nonjudicial placement; and

(C) provide procedural safeguards for parents when their parent-child relationship is affected;

(4) social welfare agencies press the courts to meet such requirements, yet scarce resources often dictate that courts

comply pro forma without undertaking the meaningful judicial inquiry contemplated by Congress in the Adoption and Child Welfare Act of 1980;

(5) compliance with the Adoption and Child Welfare Act of 1980 and overall improvements in the judicial response to abuse and neglect cases can best come about through action by top level court administrators and judges with administrative functions who understand the unique aspects of decisions required in child abuse and neglect cases; and

(6) the Adoption and Child Welfare Act of 1980 provides financial incentives to train welfare agency staff to meet the requirements, but provides no resources to train judges.

(b) PURPOSE.—The purpose of this subtitle is to provide expanded technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts, to improve the judicial system's handling of child abuse and neglect cases with specific emphasis on the role of the courts in addressing reasonable efforts that can safely avoid unnecessary and unnecessarily prolonged foster care placement.

(42 U.S.C. 13021)

SEC. 222. GRANTS FOR JUVENILE AND FAMILY COURT PERSONNEL.

In order to improve the judicial system's handling of child abuse and neglect cases, the Administrator of the Office of Juvenile Justice and Delinquency Prevention shall make grants for the purpose of providing—

(1) technical assistance and training to judicial personnel and attorneys, particularly personnel and practitioners in juvenile and family courts; and

(2) administrative reform in juvenile and family courts.

(42 U.S.C. 13022)

SEC. 223. SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.

(a) GRANTS TO DEVELOP MODEL PROGRAMS.—(1) The Administrator shall make grants to national organizations to develop 1 or more model technical assistance and training programs to improve the judicial system's handling of child abuse and neglect cases.

(2) An organization to which a grant is made pursuant to paragraph (1) shall be one that has broad membership among juvenile and family court judges and has demonstrated experience in providing training and technical assistance for judges, attorneys, child welfare personnel, and lay child advocates.

(b) GRANTS TO JUVENILE AND FAMILY COURTS.—(1) In order to improve the judicial system's handling of child abuse and neglect cases, the Administrator shall make grants to State courts or judicial administrators for programs that provide or contract for, the implementation of—

(A) training and technical assistance to judicial personnel and attorneys in juvenile and family courts; and

(B) administrative reform in juvenile and family courts.

(2) The criteria established for the making of grants pursuant to paragraph (1) shall give priority to programs that improve—

(A) procedures for determining whether child service agencies have made reasonable efforts to prevent placement of children in foster care;

(B) procedures for determining whether child service agencies have, after placement of children in foster care, made reasonable efforts to reunite the family; and

(C) procedures for coordinating information and services among health professionals, social workers, law enforcement professionals, prosecutors, defense attorneys, and juvenile and family court personnel, consistent with subtitle A.

(c) GRANT CRITERIA.—The Administrator shall make grants under subsections (a) and (b) consistent with sections 262, 299B, and 299E of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665 et seq.).

(42 U.S.C. 13023)

SEC. 224. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There is authorized to be appropriated to carry out this subtitle $2,300,000 for each of fiscal years 2001 through 2005.

(b) USE OF FUNDS.—Of the amounts appropriated in subsection (a), not less than 80 percent shall be used for grants under section 223(b).

(c) LIMITATION.—No funds are authorized to be appropriated for a fiscal year to carry out this subtitle unless the aggregate amount appropriated to carry out title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) for such fiscal year is not less than the aggregate amount appropriated to carry out such title for the preceding fiscal year.

(42 U.S.C. 13024)

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SEC. 227. REPORTING OF CHILD PORNOGRAPHY BY ELECTRONIC COMMUNICATION SERVICE PROVIDERS.

(a) DEFINITIONS.—In this section—

(1) the term "electronic communication service" has the meaning given the term in section 2510 of title 18, United States Code; and

(2) the term "remote computing service" has the meaning given the term in section 2711 of title 18, United States Code.

(b) REQUIREMENTS.—

(1) DUTY TO REPORT.—Whoever, while engaged in providing an electronic communication service or a remote computing service to the public, through a facility or means of interstate or foreign commerce, obtains knowledge of facts or circumstances from which a violation of section 2251, 2251A, 2252, 2252A, or 2260 of title 18, United States Code, involving child pornography (as defined in section 2256 of that title), is apparent, shall, as soon as reasonably possible, make a report of such facts or circumstances to the Cyber Tip Line at the National Center for Missing and Exploited Children, which shall forward that report to a law enforcement agency or agencies designated by the Attorney General.

(2) DESIGNATION OF AGENCIES.—Not later than 180 days after the date of enactment of this section, the Attorney General shall designate the law enforcement agency or agencies to which a report shall be forwarded under paragraph (1).

(3) FAILURE TO REPORT.—A provider of electronic communication services or remote computing services described in paragraph (1) who knowingly and willfully fails to make a report under that paragraph shall be fined—

(A) in the case of an initial failure to make a report, not more than $50,000; and

(B) in the case of any second or subsequent failure to make a report, not more than $100,000.

(c) CIVIL LIABILITY.—No provider or user of an electronic communication service or a remote computing service to the public shall be held liable on account of any action taken in good faith to comply with this section.

(d) LIMITATION OF INFORMATION OR MATERIAL REQUIRED IN REPORT.—A report under subsection (b)(1) may include additional information or material developed by an electronic communication service or remote computing service, except that the Federal Government may not require the production of such information or material in that report.

(e) MONITORING NOT REQUIRED.—Nothing in this section may be construed to require a provider of electronic communication services or remote computing services to engage in the monitoring of any user, subscriber, or customer of that provider, or the content of any communication of any such person.

(f) CONDITIONS OF DISCLOSURE OF INFORMATION CONTAINED WITHIN REPORT.—

(1) IN GENERAL.—No law enforcement agency that receives a report under subsection (b)(1) shall disclose any information contained in that report, except that disclosure of such information may be made—

(A) to an attorney for the government for use in the performance of the official duties of the attorney;

(B) to such officers and employees of the law enforcement agency, as may be necessary in the performance of their investigative and recordkeeping functions;

(C) to such other government personnel (including personnel of a State or subdivision of a State) as are determined to be necessary by an attorney for the government to assist the attorney in the performance of the official duties of the attorney in enforcing Federal criminal law; or

(D) as permitted by a court at the request of an attorney for the government, upon a showing that such information may disclose a violation of State criminal law, to an appropriate official of a State or subdivision of a State for the purpose of enforcing such State law.

(2) DEFINITIONS.—In this subsection, the terms "attorney for the government" and "State" have the meanings given those terms in Rule 54 of the Federal Rules of Criminal Procedure.

(42 U.S.C. 13032)